

# PENTAGON'S PROCUREMENT POLICIES AND PROGRAMS WITH RESPECT TO SMALL BUSINESS

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## HEARING BEFORE THE COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS SECOND SESSION

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WASHINGTON, DC, MAY 15, 2002

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## **PENTAGON'S PROCUREMENT POLICIES AND PROGRAM WITH RESPECT TO SMALL BUSI- NESSES**

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**WEDNESDAY, MAY 15, 2002**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SMALL BUSINESS,  
*Washington, D.C.*

The committee met, pursuant to call, at 2:00 p.m. in room 2360, Rayburn House Office Building, Hon. Donald Manzullo [Chairman of the Committee] presiding.

Chairman MANZULLO. Good afternoon and welcome to this hearing of the Committee on Small Business. A special welcome to those who have come some distance to participate and attend this hearing.

Today, we welcome the Honorable Pete Aldridge, the Under Secretary of Defense for Acquisitions, Technology & Logistics, ATL.

The Pentagon is the major buyer of goods and services from the private sector, accounting for approximately 65 percent of all Federal procurement dollars. Defense is an important marketplace for small businesses. Doing business with small business is good—Larry, we should bring you here more often. Did you bring half these people here with you or what? It is great.

How many people came here with the Secretary? Just raise your hand, just for the heck of it.

Oh, one person? Oh, yeah? That is okay. That is okay.

Doing business with small businesses is good business. The number of large firms that DoD does business with has been steadily decreasing in recent years. A few large companies account for a major portion of the Pentagon procurement dollars, leaving little competition or choice.

In contrast, competition is alive and well in the small business community providing the DoD with multiple sources and competitive prices.

In addition, small businesses have been more creative than big businesses, accounting for more patents per employee, having been more productive in creating jobs, and have provided the economic stimulus to lead this nation out of periods of economic downturn. In all aspects, doing business with small business is good for the nation.

Unfortunately, the use of large mega-contracts and consolidation or bundling by the Pentagon undermine the benefits that small businesses can provide for the future in the nation. These large, unwieldy contracts reduce competition and eventually would drive

up the cost of procurement. It also stifles innovation since the free market system is built on risk and reward. Without reward, no one will be willing to take the risk of mortgaging their home and other assets to start a small business.

In laying out the Administration's small business plan at the Women's Entrepreneur Summit, the President emphasized the need to ensure that small business has access to government contracting. He identified mega-contracts and bundling as the major impediment to the entry and fair participation of small business in the Federal marketplace.

The President has charged each government agency with breaking down large contracts so that small business owners have a fair shot at federal contracting. We are most interested in how the Pentagon is implementing the President's small business plan.

In this respect, I am very pleased to see that the Air Force's FAST contract for this fiscal year to date has attained a 77 percent prime contract participation by small businesses. This is well above the 50 percent goal, and we hope that this success will continue.

I also want to thank you, Mr. Secretary, in our opening statements for the great participation that both the Majority and the Minority staffs have had with your staff in going through each of the five prime—each of the five big contracts that have been identified by Mrs. Velazquez. It has been an ongoing process and monitoring. Our staff is extremely excited over the opportunity to have input in it and to help you with making those decision.

And I would then yield to our Ranking Minority Member, Mrs. Velazquez.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Two months ago President Bush announced his small business agenda. Significantly, he said, and I quote, "Whenever possible, we are going to insist we break down large contracts so that small business owners have got a fair shot at federal contracts."

That statement goes to the heart of what this committee has been trying to do for the past 10 years. A major determining factor in turning the President's rhetoric into reality will be the implementation of this agenda by the Department of Defense, the agency that is responsible for 65 percent of all government purchases.

If the past is any indication, however, we have a long uphill climb to work on compelling the Pentagon to implement this agenda, and that climb is getting steeper every day. There is no one agency more responsible for the exclusion of small businesses than the Department of Defense. For the past two years, DoD has not met a single one of its small business goals, costing small businesses \$3.5 billion and women-owned businesses \$4.3 billion. This absolutely must change.

Our committee has spent a considerable amount of time and energy looking at DoD's mishandling of contracting on seven separate occasions. It is nice to finally have the opportunity to hear from Mr. Aldridge.

In the previous hearings, we always heard the words about how important small businesses are to the agency, but we have seen no evidence of any concrete action.

In the committee Democrats' annual SCORECARD study, the DoD has received a failing grade for the past three years running.

The primary reason for these failing grades is the increasing reliance on contract consolidation, the very thing the President said must stop.

Just a few weeks ago we issued a Watch List of 10 of the worst contracts that rob opportunities from small businesses. Seven of these 10 were DoD contracts. That is disgraceful. Worse yet, the Pentagon continues to engage in this practice without being able to demonstrate one dime of savings to the taxpayer.

In fact, this system has disintegrated to the point where this committee has taken the drastic action of reviewing these contracts one by one because the department is either unwilling or unable to manage them itself. The department puts out plans that do not even meet the requirements of the law, and then structure its contracts to make sure work will not even be achieved. This is just the planning stages.

If and when a small business is lucky enough to get a contract, the situation only goes from bad to worse. Small businesses are threatened with poor performance ratings, paid late, and forced to perform work without proper paperwork and documentation that creates confusion and frustration later on. At that point they come to this committee because there is no effective advocate within the department. This is not the way it should be.

Small businesses are a critical factor in the economy and should not be treated like second-class citizens, especially from a federal department that has a history of \$600 hammers and \$7,000 coffee makers, because small businesses can and do provide the government with a quality product, many times more affordable than the big corporate counterparts.

Thank you, Mr. Chairman.

Chairman MANZULLO. Thank you. Mr. Secretary, we look forward to your testimony. Could you introduce your assistant with you?

Mr. ALDRIDGE. I plan to.

Chairman MANZULLO. Alright.

**STATEMENT OF THE HONORABLE EDWARD C ALDRIDGE, JR.,  
UNDER SECRETARY OF DEFENSE, ACQUISITION, TECHNOLOGY & LOGISTICS, DEPARTMENT OF DEFENSE**

Mr. ALDRIDGE. Mr. Chairman, Ranking Member Velazquez, and Members of the Committee, I am pleased to be here today to discuss the activities of the Department of Defense with regard to the utilization of the nation's small and disadvantaged businesses in support of our national security mission.

I am accompanied by Mr. Frank Ramos, the Director of Small and Disadvantaged Business Utilization Office within my organization.

I have prepared, Mr. Chairman, a formal statement for the record, but I would just like to provide a few summary points for my verbal testimony today.

Chairman MANZULLO. We will accept all of the formal statements prepared by the witnesses and by all the Members.

Mr. ALDRIDGE. First, it is essential for our national security that we have a healthy industrial base. I have made enhancing a healthy industrial base as one of my top five goals as the Under Secretary of Defense for Acquisition, Technology & Logistics.

If we are to provide our nation's soldiers, sailors and airmen with the finest equipment in the world, this equipment must come from a health, innovative and competitive industrial base.

Second, small businesses are a vital and an essential element of that industrial base. Small businesses have advanced technology we need, they are innovative, and they have the agility to rapidly respond to our needs. This past year small businesses received over \$50 billion in DoD business with over 54 percent of that value through prime contracts. This is the largest amount in the history of the Department of Defense, and I hope to continue this trend.

Third, we have initiated plans to continually improve our utilization of small businesses and we will track our progress. On May 16, 2001, I implemented a new process across the department for establishing goals, measuring progress, and reporting our results.

Fourth, we have set goals for small business utilization, but I will insist, as we all should, that the fiscal goals of all DoD contracts be met with an equally important goal of quality performance.

Fifth, we are initiating training courses at the Defense Acquisition University to show DoD acquisition managers how to better utilize small businesses.

Finally, I am serious about the utilization of small businesses and will take no action that will reduce the quality contribution of small businesses to the mission of the Department of Defense.

I am proud of DoD's record on small business issues, and look forward to continuing to work constructively with this committee to make that record of achievement even better.

This concludes my prepared remarks, and with Mr. Ramos, we will be happy to answer any questions that you may have.

[Mr. Aldridge's statement may be found in the appendix.]

Chairman MANZULLO. As is our custom whenever we have somebody who testifies in a very technical issue, we always invite the resident expert from the agency to sit alongside the Under Secretary, and we invite your participation, Mr. Ramos, and thank you for coming.

Mrs. Velazquez.

Ms. VELAZQUEZ. Mr. Aldridge, in a memo you issued on January 17, 2002, you stated that, and I quote, "When the department consolidates requirements, we must avoid unnecessary and unjustified bundling of requirements or make efforts to mitigate the negative impact that contract bundling has on small business concern."

This falls in line with the President's statement in March, in which he set out his small business agenda. In that agenda one item included by the President is "avoiding unnecessary bundling."

Based on the fact that unnecessary and unjustified bundling violates the statute and will be prohibited anyway, would you please give us some insight into your understanding of the President's small business agenda?

Mr. ALDRIDGE. I think the President's agenda was very clear. He would like to avoid bundling of contracts. We support that. That is exactly what the January memo was intended to do. We needed make sure we establish guidelines. If any of the departments were wanting to bundle a contract for purposes of saving taxpayers' dollars, they had to justify it. And we gave the guidelines by which



they could do that analysis that would imply a justification of bundling. We do not intend that that would be a very common practice. In fact, it should be a very rare practice that we would bundle contracts.

I was noticing that in the total of the number of the contracts within the Department of Defense, we have only defined 26 of thousands of contracts as being bundled, which only represents less than two-tenths of one percent of the total DoD acquisition.

I think bundling is a rare occurrence. We are going to make it rarer, and we are going to give the guidelines that when it can be done for the purposes of saving taxpayers' dollars, we give them the guidelines by which that would be accomplished.

We have to be very clear on this to justify each one of those and that was the purpose of our memorandum, is to make sure that we have the proper rationalization and justification for doing so when it is proposed to make it happen.

Ms. VELAZQUEZ. Mr. Aldridge, Democratic members of this committee released a report a couple of weeks ago that highlighted the rampant consolidation occurring with the department, consolidations for the convenience of the government without regard to small businesses.

Are these consolidations in large part the reason that the department cannot achieve its 23 percent small business goal?

Mr. ALDRIDGE. I do not believe so. First of all, we have got to define the difference between consolidation and bundling. Consolidation clearly implies that we can consolidate small businesses and that consolidation can also be competed by small business. Bundling, I think, is when you try to—you bundle contracts to exclude small business. That is what we need to avoid. But when we have consolidation that permits small businesses to happen, I think that is okay.

Now the—I forgot your question. I was getting into the definition rather than—

Ms. VELAZQUEZ. I asked you, first, are you telling me that the consolidation of contracts that displace small businesses because it is bundling according to statute is okay?

Mr. ALDRIDGE. No, I am saying that we want to avoid bundling, but in some cases it may be justified. But in the case where it can be justified, there has to be analysis to prove it, and we have given them guidelines on how to prove that, if bundling is okay. I expect that to be a rare occasion, not a popular one.

Ms. VELAZQUEZ. My previous question was, are not these consolidations in large part the reason that explains why your department did not achieve the 23 percent statutory goal?

Mr. ALDRIDGE. No, I do not believe—I do not believe bundling is the reason we are not achieving the percentages for our goal, our total goal versus independent ones.

I believe the reason is that we in the proper process of finding qualified small businesses, we have a problem that the pool size to allow us to achieve those goals is not large enough. So the combination of taxpayer cost effectiveness and the quality is the reason we are not achieving goals in many of those cases.

Ms. VELAZQUEZ. So let us talk about consolidation. We are not taking here about bundling.

Mr. ALDRIDGE. Consolidation—

Ms. VELAZQUEZ. So are you telling me that when you consolidate, just make contracts, that we do not—you cannot find qualified small businesses that cannot provide the products and services that are required?

Mr. ALDRIDGE. No, no. No, I did not say that. You asked about bundling. Consolidation will permit small businesses to participate. If you consolidate contracts, small businesses can bid, but it is not consolidation nor bundling that I believe that causes the issue of not being able to achieve the goals precisely.

Ms. VELAZQUEZ. Okay.

Mr. ALDRIDGE. It is quality of control.

Ms. VELAZQUEZ. Mr. Aldridge, would you please submit for the record within the next 10 days a listing of all consolidated contracts by the department and the cost savings that have accrued to the government as a result?

Mr. ALDRIDGE. I will try to find that data, yes.

Ms. VELAZQUEZ. I guess that if you cannot find it, then I will provide it to you. We have a list.

Where is it? We can provide it. Here, maybe you can see it.

Mr. ALDRIDGE. These are the Federal Watch List. Not all contracts which had been—and the cost savings for each of them. You had asked me for a much longer—

Ms. VELAZQUEZ. Sir, out of those 10, seven come from DoD.

Mr. ALDRIDGE. Understand.

Ms. VELAZQUEZ. Okay.

Mr. ALDRIDGE. But I believe you asked me for all consolidated contracts and the cost savings across the Department of Defense. That would be a lot longer list than that.

Ms. VELAZQUEZ. Okay. You could start with the seven that we have there.

Mr. ALDRIDGE. Okay. Thank you. I will.

Chairman MANZULLO. Mr. Hefley.

Mr. HEFLEY. Thank you.

Mr. Secretary, I am glad to hear you reiterate the policy again about bundling. Bundling has disturbed me for a long, long time, and partially because I started out in the construction business for a small contractor. And when I say I started out in the construction business, I do not want it to appear—I do not want it to be more grandized than it was. I drove a truck, and I was a carpenter's apprentice for a small contractor who was doing small projects at Tinker Air Force Base in Oklahoma City.

And he was able to get those small contracts. He was a new company and he was able to get those because he could bond for those. And we did the refurbishing of the officer's club there, I remember. We did some shops in some of the hangars.

Had they put those contracts together, we probably could not have qualified for it. By doing them separately, we were able to.

Is that the kind of thing that you are trying to get to so that you can get it down to the size that a small business can bond for and can compete for, and then work it? We would like for all small businesses to become big businesses some time.

Mr. ALDRIDGE. We hope that all small businesses started or all businesses have started out being small. I am sure many—

Mr. HEFLEY. Oh, sure.

Mr. ALDRIDGE. Boeing started out in a back yard of a garage.

Yes, sir, that is the idea. Look, as I said, a healthy industrial base for this country, for the Department of Defense is absolutely essential, and we are finding with over \$50 billion of our procurement going to small businesses. These are people that have a lot to offer us in technology, agility of move, and to do things quickly. We need to encourage that, and that is what I am trying to do with the guidance that we have both in terms of avoiding the bundling as well as another memorandum that I issued that would try to get to get a better process by which we can follow, set goals for ourselves and follow them and make progress throughout the military departments.

So the answer to your question is, yes, sir. Small businesses are valuable. They are part of our industrial base. We need to make them healthy, and hopefully get them to be big businesses some day in the future.

Mr. HEFLEY. I am glad to hear you say that. I hope we continue to move in that direction.

Another question I get an awful lot—

Ms. VELAZQUEZ. Will the gentleman yield?

Mr. HEFLEY. Yes, ma'am.

Ms. VELAZQUEZ. You see, Mr. Aldridge, the contract, the number two contract, it called for the construction of seven barracks. If you break them down, you are building seven, so you could break them down to have small businesses to compete and build at least one.

Mr. ALDRIDGE. Mrs. Velazquez, I am not familiar with that contract. That contract level does not normally get to my attention.

But it is clear that we also have a—I have an obligation to the taxpayers of the United States. We have to provide those taxpayers with the most efficient capabilities we can. And so there is a balancing act that goes on in everything we do between trying to support small business, which I clearly support, and I will continue to say that almost every time I talk before this committee, I support small business, but I also have the equally important obligation of ensuring the taxpayer is getting the maximum return for the dollar.

Now, I am not familiar with that contract, so I do not know whether the two have been balanced in the right way. But certainly we will follow that to make sure that is going to occur, but I believe it is important to understand that saving taxpayers' dollars is also important as well as trying to protect small businesses.

Mr. HEFLEY. If I might, I have one other question. I get a question a lot of times from small majority business owners, I guess you would call them, that all of the set asides for small business are taken up by minority and women-owned businesses, and there is all kinds of shell games being played out there so they can qualify as a minority or a woman-owned business.

And it is my experience that if you are a small business struggling to get started and to make it, it does not much matter what your color or what your gender is. I mean, you may need these set asides.

Can you speak to that? Are all of these or the vast majority of these being taken up by special categories rather than small business in general?

Mr. ALDRIDGE. Well, yes, sir. Not only do we have a small business goal across the department, but we have subcategories of small business goals within each of the categories, an 8(a) firm, minority-owned, women-owned firm, and of course there are HUB zone areas we also have goals set for.

So yes, there are all types of different categories of goals.

Do you want to say something about that, Frank?

Mr. RAMOS. Yes. What I would like to do is kind of put this a little bit into perspective, and I would like to share with Congressman Velazquez.

Clearly, we share your concern about the appearance of this bundling that has taken place within DoD. I told Mr. Aldridge, and believe me, I am not saying this just to be patronizing, I have been around town a little bit. I have Mr. Aldridge and Mr. Michael Winn, who are my immediate directors, they have given me a tremendous license to roam around the Department of Defense looking at these issues.

I was just describing to Mr. Aldridge that if you look at the metrics, and go back 10 years if you will, and all of those statistics are up on the board, if you look at them almost like a heartbeat, that heartbeat is rather consistent, whether it had been the past administration, this current administration. They have all been fairly consistent. There has only been one blip in terms factor in terms of that metric performance, and that was the Persian Gulf War.

I kind of expect we are going to have another impact in this next year. We do not know because the data is not there. So what I am saying and what I am describing here is that we have been rather consistent notwithstanding the different directions that they have had at the Department of Defense, so we are taking a look at that.

With respect to the issue on bundling, if we saw a loss in there across the board generically speaking, then we can say it is pinned to that. But the slope of dollars and the slope of numbers of contracts that we see for small business is rather consistent. It is not where we want to be, clearly it is not where we want to be.

However, when we look at the bundling aspect of it, we have had a series of reports, whether people agree to them or not, we have had the General Accounting Office, we have had an inside contractor take a look at them, and I guess you can arrive at a conclusion that it is not conclusive because of a lot of different factors.

The President has currently put together a task group of all the federal agencies to examine this. It is our expectation that the Department of Defense will get some clarity of definition of what bundling is in the real sense, and we will also get some cross-cut from some of the other federal agencies to compare it to us, to see what it is that we can use as the best model to penetrate this issue of bundling.

Is nagging at us, Congressman Velazquez? It tears at us in terms of having to be reactive to this. We have provided to the staff here on this committee a listing of all the bundled contracts that we have had, at least under the definition.

We have not had a chance to analyze and do the analysis as you request, Congressman, and we are going to do this.

Ms. VELAZQUEZ. Sir, when you said to me that you are working hard, that you are trying to do your best, and that you are doing better, look at the numbers. Last year your achievement in terms of your goal of 23 percent was 21 percent in the year 2000. In the year 2001, it dropped to 20 percent. That is a big drop. It represents a lot of money for small businesses.

Mr. RAMOS. We are looking at a statistical issue, and I agree, there are some inferences there. But if you look again at the dollars, in terms of the units, if you will, they are consistent in terms of what I look at as the trend. We have to look at the trend in terms for us to analyze, and that is, I guess, my commitment to you, Congresswoman. When I first met you, I told you I am going to dig into it, and that is what we are going to do. That is the heart of it.

Ms. VELAZQUEZ. Well, let me just say this is not a statistical issue.

Mr. RAMOS. It is not.

Ms. VELAZQUEZ. With all of these small businesses that are here and will be testifying, this is about money and this is about jobs, and when they are forced to shut down their business or fire their employees.

Chairman MANZULLO. Okay, Mrs. Tubbs Jones.

Ms. TUBBS JONES. Good afternoon, Secretary Aldridge, Mr. Ramos. Let me address my comments, first of all, or my questions to the Secretary, Mr. Aldridge.

Mr. Aldridge, would you agree that as the leader of the Department of Defense it is you who sets the goals and objectives of your department.

Mr. ALDRIDGE. We set the policy. We try to work closely with our service counterparts to make sure that—

Ms. TUBBS JONES. The short answer is yes. As the leader of the agency, it is your job to get the troops in line. Is that a fair statement?

Mr. ALDRIDGE. The Secretary of Defense is the leader of the Department of Defense.

Ms. TUBBS JONES. Right.

Mr. ALDRIDGE. I simply—

Ms. TUBBS JONES. But the department for DoD, you are in charge of DoD; is that a fair statement?

Mr. ALDRIDGE. No, the Secretary of Defense is in charge of the Department of Defense.

Ms. TUBBS JONES. You are in charge of procurement, let me be a little clearer then.

Mr. ALDRIDGE. That is right.

Ms. TUBBS JONES. So as the leader of that division, whatever you do, whatever you say, the troops ought to get in line. Is that a fair statement?

Mr. ALDRIDGE. That is the—we have set the policies for the small business goals.

Ms. TUBBS JONES. I only have but five minutes. I need a yes or a no on some of these question, if you would help me, please.

Mr. ALDRIDGE. Well, I am not sure I understand exactly what you are asking me to agree to.

Ms. TUBBS JONES. In other words, whoever is in charge of procurement or whatever the division is sets the policy for the people who they lead. Is that a fair statement?

Mr. ALDRIDGE. That is correct.

Ms. TUBBS JONES. Okay. You have a statement that you gave to this committee this afternoon, sir, and nowhere in the statement do you mention 8(a) programs.

Are you familiar with 8(a) programs, sir?

Mr. ALDRIDGE. I am.

Ms. TUBBS JONES. Can you tell me what they are?

Mr. ALDRIDGE. They are—we set a goal for 8(a) programs that are at two percent, an internal function, for the—I think you are criticizing us for not having—

Ms. TUBBS JONES. I have not started criticizing yet. I asked you do you know what an 8(a) program is, sir.

Mr. ALDRIDGE. Disadvantaged business; yes, ma'am.

Ms. TUBBS JONES. And what is an 8(a) program? Excuse me?

Mr. ALDRIDGE. It is a disadvantaged business.

Ms. TUBBS JONES. There is a program called small and disadvantaged business, but there is also an 8(a) program that is for—ask Mr. Ramos what an 8(a) program is.

Mr. RAMOS. The 8(a) program is a small and disadvantaged business who has suffered economic and social disadvantages that are certified by the Small Business Administration.

Ms. TUBBS JONES. Included in those are minority businesses. Is that a fair statement?

Mr. RAMOS. Minority business. It is certain protected groups. It could be anybody else, including a majority person showing economic disadvantage.

Ms. TUBBS JONES. Let me back up. Mr. Aldridge, what is your policy as the leader of procurement with regard to minority businesses?

Mr. ALDRIDGE. My policy with regard to—you mean my goal for how much business—

Ms. TUBBS JONES. I want your policy and your goal, sir.

Mr. ALDRIDGE. My policy is I am supporting small business activities within the Department of Defense as a—

Ms. TUBBS JONES. And how do you represent that policy, sir?

Mr. ALDRIDGE. I have issued guidance to the military departments regarding the goals that we set—

Ms. TUBBS JONES. Why do you not take a moment and read the memo that your staff just gave you, sir, so you know what it is?

Chairman MANZULLO. You can tell that Congresswoman Tubbs Jones is a former—

Mr. ALDRIDGE. The policy, the policy that I have set forth for the military departments as to what goals they need to set, how they are going to measure their progress, and how do they report them back to us has been issued to each of the military departments.

Ms. TUBBS JONES. Do you know the policy, sir?

Mr. ALDRIDGE. Do I know the policy?

I am searching for what—

Ms. TUBBS JONES. It is simple. Either you know it or you do not know it. The question is if you do not know it, how is the rest of your staff know it, and the goals and the percentages that are represented by how many minority persons have had an opportunity to do a DoD show that you do not know the policy, and therefore you have not been able to implement it.

Mr. ALDRIDGE. No, if you are talking about the policy with regard to the goals we have set for 8(a) firms, I know that. That is two percent of our procurement.

Ms. TUBBS JONES. Have you met that?

Mr. ALDRIDGE. No, sir—ma'am.

Ms. TUBBS JONES. And you do not have any problem figuring out whether I am male or female though, are you? [Laughter.]

Ms. TUBBS JONES. And can you tell me why it is you think you have not met that goal, sir?

Mr. ALDRIDGE. I think there is two reasons. One is we have to have people who are qualified to—we have to have a pool of people who are qualified to do the business and to compete in the business for in that goal, and we have not been able to do that. It does not mean—

Ms. TUBBS JONES. I did not invite any of these people. Will all the minority folks in this room stand up, please, that have been trying to do business with DoD, and they have been termed “not qualified” to do business? Is there anybody in the room?

I guess they have not been invited to be here at this session. But let me assure you, Mr. Aldridge, Mr. Ramos, there are minority business people in the United States who are prepared and capable of doing business with you, and I would love to have an opportunity to present you a list of those so you do not have this question that everybody say we cannot find none, because I have got plenty for you.

I yield the balance of my time.

Mr. RAMOS. Madam Congressman, I have not heard the question from inside the Department of Defense that we cannot find minority contracts.

Ms. TUBBS JONES. You may not have heard it but that is what your leader just said, so that is the point I am trying to make to you gentlemen, that whoever sits at the top sets policy and agenda. And if they cannot articulate it, if the people cannot see what they are doing, then the people who are doing the job cannot implement it, and that is solely my point.

Mr. RAMOS. I carry out the policy for Mr. Aldridge. I know the policy, and we are endeavoring to carry it out. We do have the minority firms. We have small disadvantaged firms.

Ms. TUBBS JONES. So you disagree with Mr. Aldridge that there are no minority firms qualified to do the job that he just said?

Mr. RAMOS. We both are saying that there are minority firms that are qualified, and there are minority firms who work—

Ms. TUBBS JONES. But you cannot find them?

Mr. RAMOS. I never said that. Never said—

Ms. TUBBS JONES. I am not going to go back through the record. The point that I am trying to make is, Mr. Aldridge, Mr. Ramos, we sit here representing people of all color, race, sex, religion, national origin in these United States. There is enough money at the

governmental till for everybody to have an opportunity to step up to the plate, to participate, and we believe that DoD who does 65 percent of the procurement for the United States has an obligation and a duty, a moral principled obligation to give minorities, women opportunities to do work with the federal government, no matter what it takes for you to do that.

Can you agree with that?

Mr. RAMOS. In principle, yes.

Ms. TUBBS JONES. Thank you. So I am asking you to implement it.

Mr. RAMOS. Okay, but there are some factors in implementing that we are trying to share with minority firms, and all small businesses, as far as that goes.

Ms. TUBBS JONES. Would you send those to me so I can share them with the minority firms that I know are qualified to do work for the federal government?

Mr. RAMOS. I would be glad to meet with them if you wish and explain what they are.

Ms. TUBBS JONES. But I want you to send me what you—whatever those principles are so I can clearly give them an opportunity to be prepared to respond. Can you do that?

Mr. RAMOS. Yes, ma'am.

Ms. TUBBS JONES. Thank you.

Chairman MANZULLO. How much time do you need for that, Mr. Ramos?

Ms. TUBBS JONES. If they are already prepared, I could have them tomorrow.

Mr. RAMOS. We could probably do it at the first of next week, if you wish.

Ms. TUBBS JONES. Well, thank you very much.

Chairman MANZULLO. Within 10 days.

Mr. RAMOS. Yes.

Chairman MANZULLO. I am going to take my turn at this time.

Mr. Secretary, the question was posed earlier as to meeting the small business goals. This is for all small businesses. In your response, and I heard it again, is that the pool is not large enough. We had a—Deedra Lee came out about five months ago, held a procurement conference in my district. Two hundred and forty people showed up. Several people have gone with the PTAC afterwards and signed up to qualify for the contracts. But I am finding your answer—maybe it is not clear. Maybe I misunderstood. I thought there were more than sufficient numbers of small businesspeople in line out there ready to get the contracts when they are being offered.

But what did you mean by the pool is not large enough? Am I missing something here?

Mr. ALDRIDGE. Perhaps I misspoke. The idea—we are after—the goal we have set for ourselves, this Committee and our office within the Pentagon are after the same objective. It is to increase the health of the small business community. We are trying to do that. We have set goals for—

Chairman MANZULLO. You have done that on FAST?

Mr. ALDRIDGE. We did it on FAST. We are trying to do it on other things as quickly as we can, but—



Ms. TUBBS JONES. What, all those seven contracts?

Mr. ALDRIDGE. Well, I hope we are. I hope we are. I am not familiar with them, but I hope we are.

Chairman MANZULLO. But could you explain what you mean by the pool is not big enough?

Mr. ALDRIDGE. Well, I think I probably misspoke about the pool. The question I am getting to is performance. We want to achieve the objective of the national security of the Department of Defense. And we are not—I could meet goals by just passing money out. That is not the intent in which we are trying to achieve. We just do not pass money out to achieve a goal. We have to get a return, a performance on that. And in the process we are not able to achieve the goal because for some reason we are not getting the ability—

Chairman MANZULLO. Are you saying that the small businesspeople are—the small businesspeople are not performing to standard enough?

Mr. ALDRIDGE. No. It is when we go through the process of issuing the—for going through competition, we obviously are trying to—we are trying to achieve the goal all the time. We are not able to do it for some reason.

Chairman MANZULLO. Then the problem has got to be an internal reason or the bidding process or something because we have got folks back home that are stacked up like train cars ready and itching to get those government contracts.

Is there a disconnect somewhere here? Mr. Ramos, could you help us out?

Mr. RAMOS. Let me tell you what—and this is pretty much generic across the Federal Government, but even more so at the Department of Defense because of the war fighter needs.

What they are looking for is past performance; that is, the capability of being able to perform on a contract.

Chairman MANZULLO. But that would hinder the start-up businesses, especially minority businesses.

Mr. RAMOS. Well, there is—

Chairman MANZULLO. Is that not correct?

Mr. RAMOS. There are some other factors that go along with that. The 8(a) firms are certified because of their managerial and technical competency, and they also have financial capability to perform. Those are factors that the contracting officers look at with respect to whether or not that firm can perform on the contract, and including past performance.

We are suggesting and advocating for a lot of firms, particularly start-up ones, and I think those are the ones that are raising a lot of question. In my experience at the SBA, we had the same experience with small businesses. They want to get in the door.

The way you get in and we are advocating this to help them move into the system is to partner in a joint venture so they get that past performance.

Chairman MANZULLO. Joint venture. So the small business has a joint venture with a big business in—

Mr. RAMOS. They do it all the time, sir.

Chairman MANZULLO. In order to get performance?

I mean, let me give an example. I mean, say you need 100 of these made up, this object here. You put out RFPs for five of them, award one contract, one each to five small businesses and see how they perform on that. I mean cannot you do that as opposed to forcing a small business to form a partnership with a large business to get a performance contract?

Mr. RAMOS. What I am saying is that it is relative in size based on the contract. That probably will not need a partnership. If you have that product and you are the only one that can produce it, that is not the issue.

If you get into the more major issues and systems, that is where the small businesses have a harder time because of the managerial, technical and also the financial capabilities.

Chairman MANZULLO. Okay. Okay. All right.

Dr. Christian-Christensen.

Ms. CHRISTIAN-CHRISTENSEN. Thank you, Mr. Chairman. Welcome, Secretary Aldridge, and Mr. Ramos.

I want to go back to the 8(a) question for a minute. Can you tell me what specifically you are doing to increase the—you said you did not meet the goals. Our information is that the procurement, 8(a) procurement has been steadily declining.

Can either of you tell me what you are doing about that? What specific steps are you taking to increase 8(a) participation?

Mr. RAMOS. Well, first of all, Department of Defense did not participate in the 8(a) goaling in the past, and this is the first time that they have symmetrics in there.

Ms. CHRISTIAN-CHRISTENSEN. Why?

Mr. RAMOS. Why? I cannot answer it because I was not here. That was the past policy. Okay? All I know is from here on out.

It is there. If you look at an 8(a) firm, that can also be a small and disadvantaged firm, so they kind of blend if you can.

Now, what we are going to do with the 8(a)'s is we are going to try and address them as—because 8(a)'s are also women-owned business, service disabled veterans, Native Americans and others.

Ms. CHRISTIAN-CHRISTENSEN. Right, and I see that you plan to focus on that.

Mr. RAMOS. Yes.

Ms. CHRISTIAN-CHRISTENSEN. I am impressed with that, but I want to make sure that we address this particular program which seems to be coming in conflict with some others.

Mr. RAMOS. Well, 8(a)'s in some cases enjoy a preference because they are certified. Depending upon the offering, they can enjoy an advantage with respect to that offering that may come from any of the service branches.

Now, the question is where can they best fit into those opportunities, and I think this is what Mrs. Velazquez is saying.

Ms. CHRISTIAN-CHRISTENSEN. Can I just interrupt you to maybe fine tune your answer?

Do the representatives from the agency meet the Small Business Administration on a regular basis to identify any specific projects that 8(a) program participants might be particularly well suited for? Do you ever meet—

Mr. RAMOS. Well, let me just tell you one of the initiatives that I have taken up since I have been there.

We have set up with Fred Armandotiz, he is the associate administrator for contracting, we are setting up periodic meetings with them. We set up our first meeting a little over a month ago to talk about common issues like that, and including bundling. That was the last conversation with them.

So our intentions and our commitments to agencies is to discuss that very subject.

Ms. CHRISTIAN-CHRISTENSEN. Have you talked about HUB zone versus 8(a) because that is becoming an issue?

Mr. RAMOS. We have not had the discussion with them about it, but we have some initiatives with respect to the HUB zones.

Ms. CHRISTIAN-CHRISTENSEN. What are those initiatives?

Mr. RAMOS. Well——

Ms. CHRISTIAN-CHRISTENSEN. Like using the—focusing on Native American reservations?

Mr. RAMOS. In part. What we are developing right now is a strategy on how to approach HUB zones because what we have are urban HUB zones and we have rural, if you will, HUB zones, and then you have HUB zones by definition are all Native American reservations.

I am a big advocate of partnering between the different disadvantaged groups. The Native Americans enjoy a certain priority with respect to contracting, particularly the Alaskan tribes. By definition, as I said earlier, reservations are HUB zones, and we are trying to encourage partnering with the Native Americans in those HUB zones so that they can have an advantage in the contracting to get them inside the door. So we are developing that strategy as we speak now.

In fact, one of my special assistants is trying to develop that, and we have already talked to the Navajo and to the Hopis in Arizona to see how we can get in the door in that respect.

Ms. CHRISTIAN-CHRISTENSEN. And other than that, are you finding that—who gets preference between a HUB zone and an 8(a)? Is there a priority one over the other?

Mr. RAMOS. It depends on the set of circumstances on what you are trying to accomplish. They each have their own advantages. There are preferences in the HUB zones because of the economic benefits of a community that gives incentives to a business that starts up a business or has a business within the HUB zone.

An 8(a) in itself does not enjoy that, but if you couple the two together you have a tremendous opportunity, and that is what we are trying to advocate, particularly with the Department of Defense.

Ms. CHRISTIAN-CHRISTENSEN. Why would you have a difference in the goals for either one?

It seems to me—and the reason I ask the question is because you have a higher goal for HUB zones than you have for 8(a). And given the fact that they come into conflict and given the fact that 8(a) are largely disadvantaged or women-owned or minority-owned businesses where HUB zone businesses do not have to be, there is a discrepancy there just in looking at your goals.

Mr. RAMOS. Unfortunately, I was not here when those goals were negotiated with the Small Business Administration. I do wish to—if we have another opportunity to discuss that, and hopefully be-

forehand to see how the—what the rationale was in establishing those goals were because as I alluded to earlier there is kind of a historical performance of all the federal agencies, and there is something that has to drive them to get over that hump, and that is what we are going to try and do.

Ms. CHRISTIAN-CHRISTENSEN. There are so many questions. If I could get in one last question?

The consolidated contract versus the bundled contract, when an organization combines requirements previously performed under separate contracts into a larger contract it is a consolidated contract. If the previous smaller contracts was suitable for award to small businesses, then the consolidated contract is unsuitable for award to small business, then it is a bundled contract.

I am still not clear that a consolidated contract is not a nice word for a bundled contract. Can you help me out?

Mr. RAMOS. I will speak from the street. If you want to manipulate the system, you can manipulate it by using the bundled processed. If you really want to help out the small businesses, you will segment those bundled agreements to benefit the small businesses that we are trying to grow.

I think the big debate right now, and the President has taken the incentive here to address this issue because it has reached his administration's attention, we have all federal agencies coming together, I will just say the majority, including the SBA, who are going to scrutinize this question because there is a lot of confusion with respect to definition.

And I kind of agree with you. There is confusion. My role inside DoD is to attempt to diffuse and to clarify that confusion because we see segments that we just saw with Congresswoman Velazquez yesterday talking about some other circumstances, and you can see the lack of clarity, and that happens.

Ms. CHRISTIAN-CHRISTENSEN. Thank you. When it is resolved the rate of that resolution is given towards small businesses.

Mr. RAMOS. I am with you.

Mr. ALDRIDGE. I think it is very clear what the President has told us to do.

Chairman MANZULLO. Before I recognize Mr. Bartlett, I will state for the record that Minority and Majority staff members of this committee are meeting with Mr. Ramos on a periodic basis on those seven contracts that are with DoD. I appreciate the fact that the foot is in the door, and we are there to help, and we will give you lists of people back home that need contracts and things of that nature, but I just want to recognize that for the record. I appreciate the effort on it.

Mr. RAMOS. Thank you, sir.

Chairman MANZULLO. Mr. Bartlett.

Mr. BARTLETT. Thank you very much.

Our developing technology is presenting challenges for contracting with small business. Let me give you one example, and there are others. The procurement cycle in government is so long that by the time we procure the new information technology equipment it is pretty much obsolete. And so a number of our agencies, and one of the first that we had contact with was the Navy and Marine Corps, which were issuing a single contract, not to buy

equipment, but to buy performance, so that the contractor could then always have the latest, best equipment available.

We met with them, Mr. Crouth, and I met with them, and to their credit they withdrew their RFP and issued another RFP, assuring that 35 percent of all that business would go to small business and 10 percent of it would be direct pay.

So some of the challenges we face in contracting with small businesses are a result of this developing technology, which makes it more desirable for us to go to these large contracts, call them consolidated or bundle, whatever you want to call them. In any event, you can provide opportunities for small business there if you wish.

I was one of perhaps 35 people who came to this Congress from NFIB. I was a small businessperson in another life. I also worked for the government. About, I guess, 30 some years ago I left the government as a GS-15, and when I was in the government I was involved in issuing RFPs and reviewing the response from the business world. And then I became a small businessperson. First I worked for a big business like IBM, and responded to RFPs there, and then I had my own company.

There are a couple of issues that I wanted to talk with you about very briefly that I think present challenges for better mobilizing the small business community so that we can capitalize on the greater creativity that you find in the small business community.

One of those is the fact that contracting officers are graded on how well their contractors perform. And so when you get responses in a RFP and from a variety of contractors as a contracting officer you are very disposed to go with Joe because Joe has performed several times in the past. You know he will do a good job. Jim may have presented a response to the RFP that maybe looks at least as good, maybe a little better than Joe, but, gee, I never saw Jim before. I do not know whether he is for real, whether he can perform or not. And so the contract goes to Joe.

It makes it very difficult—I have experienced this personally—for a new person to break in. Somehow we need to reward our contracting officers for reaching out. They are going to fail once in awhile. That should be okay. If they have not failed, they are not reaching out enough. And so you need to have some new performance guidelines, I think, that encourage our contracting officers to reach out and to cast a broader net.

Another problem we have is that there are many small businesses out there that have solutions that you never issue an RFP for because you do not know that they are out there, so somehow you have to be able to issue RFPs that just say, you know, do you have an idea for doing something better than we are doing, and if you do, you respond. I know you have something that aims at that.

But if you respond, you know, you have got the ball and you are going to carry it now, because if you can save us money and do it better we are going to give you the opportunity to do that.

We have to do a better job of reaching out. I know we do it somewhat, but I think there are small businesses out there that still have ideas that we are not reaching with our request for proposals.

And another very recent problem I have been introduced to that many of our contracts now provide security clearance. If you are a big business, it is easy to have some people around that you can

pull together to perform on a classified job. If you are a small business, you cannot do that. So from the get-go you are excluded from that process. And I know that you are starting to do this, we need to do it better, and let small business know we are doing it. We need to prequalify. They need to know that they can have their people prequalified so that when they respond to an RFP that requires classified work, that they will be able to complete.

These are several things that I think that we can do to cast a broader net, to encourage our contracting officers to reach out to these others, and to have more of our companies prepared because there are people for classified contract.

Could you comment?

Mr. ALDRIDGE. Yes, please. Let me talk about two of the—Frank will talk about the third one. The first one you are talking about getting contracting officers to go after small businesses. That is the value of setting goals, to try to encourage people to do this. If there is no goals set, they are not incentivized to go try this. And one of them, in fact, October 26 we issued the largest defense contract in the history of the Department of Defense called the Joint Strike Fighter.

We have set goals for small businesses of the Joint Strike Fighter at a minimum of 20 percent for small business with a stretch goal of 30 percent. So we have incentivized the program manager, General Hudson, to go after and include small businesses in the Joint Strike Fighter Program, which is a very positive thing.

The other part of that, of trying to encourage small businesses to get involved, we have a thing called a broad area announcement. These are ideas that we have—we have a need. We want to find out who has ideas to meet that need. And a good example of that is after September 11th we created a counterterrorism technology task force which identified some areas that we felt were important to fighting terror. And I had been receiving phone calls from industry and from people wanting to help.

So what we did is we put out a broad area announcement by our office out to individuals, universities, small businesses, big businesses, whomever wanted to reply to ideas for how to fight terror, counterterrorism. And we got 13,500 inputs, most of which were from small businesses and people who had innovative ideas, individuals and so forth.

We are now going through the process of evaluating those with a technology team. We have got it down to about 400, and we will probably even contract about 20 of these ideas. But this is a process by which I think we get to your problem of when we have an idea we need something, let us see who has got—who can respond to it as well as getting inputs in from other people.

Mr. BARTLETT. What about technologies out there that are addressing problems that you do not even know can be addressed because you have no idea that technology is out there?

Mr. ALDRIDGE. Well, I think in that case many of the laboratories and the various acquisition centers throughout the military departments have small business advocates in their facilities that small businesses can come to them and present ideas. I believe there is a process. I think the ideas, we have to make sure that the small businesses know where to go to get their ideas evaluated.

Mr. BARTLETT. Thank you.

We have one—I am sorry.

Mr. RAMOS. I am sorry. I just wanted to clarify. We are doing something, and this is aimed at the veterans. You asked a question about security. The best people, the people that are best prepared to meet security requirements are veterans because of their background. We are starting a veteran initiative to explore, and we already had a brainstorming group with some veterans as to develop this program. And we have had the National Security Agency come in and give us an outline of how to do this.

So we are moving in that direction, to try to use our resources inside of Department of Defense so that we can inform and instruction our small business how to get into the security areas, if you will, within the Department of Defense because you are correct, sir, they do not know at this time by and large, so we are going to try and help them get through that threshold.

Chairman MANZULLO. Okay, thank you. Congressman.

Mr. VILA. Thank you, Mr. Chairman.

I will yield my time to Congresswoman Velazquez.

Ms. VELAZQUEZ. Thank you.

Would you please get the memo up there? But let me just react to what Mr. Ramos just said.

Chairman MANZULLO. Could you yield for just a second?

Ms. VELAZQUEZ. Sure.

Chairman MANZULLO. We have about a half a dozen seats over there for the first six that—look at this, look at this. Look at all the guys go and leave the ladies behind. Okay, there comes one lady. We have some more room over there. Please just help yourself to some seats over there. There you are.

Ms. VELAZQUEZ. Mr. Ramos, you just said in response to the gentleman's question that veterans are the best to handle security issues, right? That is what you just said?

Mr. RAMOS. I am saying because of their veteran experience many of them have security clearances and experience in dealing in secured environments, and we are trying to reach out to those veterans.

Ms. VELAZQUEZ. So reach out to them for what?

Mr. RAMOS. So they can come in and have—

Ms. VELAZQUEZ. And that explains why you did not set any goals for veterans?

Mr. RAMOS. Well, again, Congresswoman—

Ms. VELAZQUEZ. Thank you. Let me go to Mr. Aldridge.

Mr. Aldridge, your memo of March 2001 clearly shows—do you remember that you issued a memo? Okay. That the department—it clearly shows that the department does not plan on achieving its goals. In fact, the memo does not have the department meeting the small business goal until fiscal year 2003.

Your memo does not have the department, right there, meeting the women-owned business goal even by 2006, does not even mention the service disabled veterans business goal and does not even mention the 8(a) program goal.

Why did you issue a memo that shows such low goal achievement?

Mr. ALDRIDGE. These are projections which we think we can achieve with a reasonable outreach program. We can set goals.

Ms. VELAZQUEZ. Sir.

Mr. ALDRIDGE. I could set a goal of 20 percent up there which I know I cannot achieve on any one of the smaller disadvantaged business. We are trying to put goals that we think we can stretch to, but that we can try to achieve.

Ms. VELAZQUEZ. Sir, how can you explain, you control 65 percent of federal contracting dollars. When we look at other smaller federal agencies, they negotiate goals that are much higher than the one that you negotiated for your agency.

Mr. ALDRIDGE. I think the issue is it is not just a percentage number that we have—

Ms. VELAZQUEZ [continuing]. It is not—the issue—

Mr. ALDRIDGE.—It is the amount of money.

Ms. VELAZQUEZ [continuing]. Here are, sir, statutory goals set by Congress. That is the law. Twenty-three percent for small businesses, five percent for women-owned businesses.

And then I will ask you, why did you take until 2003, until fiscal year 2002 to establish an 8(a) program goal when a presidential executive order dated October 6, 2000, required the establishment of one?

You were the only agency in the federal government. Everybody else set a goal for the 8(a) program. What is it? Is it your attitude? Is the culture of the Department of Defense?

And let me just react to something that you just said to the Chairman here. You said that you do not have a pool of qualified small businesses out there.

I resent that statement, and it reflects your attitude toward small businesses. We are not asking here for handouts for small businesses. We are asking here for a level playing field that would allow for small businesses who can provide the hammer, that you pay \$700, or maybe you can get it from a small business person for \$50.

Mr. ALDRIDGE. Madam—

Ms. VELAZQUEZ. Or the \$7,000 that you pay for coffee makers.

Mr. ALDRIDGE. I do not have to be here being insulted.

Ms. VELAZQUEZ. No, I am not—I am not insulting you.

Mr. ALDRIDGE. Yes, you are.

Ms. VELAZQUEZ. I am saying it is your attitude. You were the one who said here that you do not have a pool of qualified small businesses.

Chairman MANZULLO. Let us give—

Ms. VELAZQUEZ. I am telling you, Mr. Chairman—

Chairman MANZULLO. Would the Gentlewoman—

Ms. VELAZQUEZ [continuing]. This is my time here.

Chairman MANZULLO. I understand.

Ms. VELAZQUEZ. We have people, small business people that—

Chairman MANZULLO. Mrs. Velazquez—

Mr. VELAZQUEZ [continuing]. Can provide the products that you need.

Chairman MANZULLO. Let us give the Secretary the opportunity to answer—

Mr. ALDRIDGE. I do not have to sit here—



Chairman MANZULLO. Mr. Secretary, the issue is very passionate with Mrs. Velazquez, and I could attest that she is not trying to be insulting. She is trying her best, and I am sorry if you took it that way. Please proceed. Thank you.

Ms. VELAZQUEZ. What I am saying, sir, we are not here to jeopardize the national security or the Department of Defense. We are here to ask you that you comply with statutory goals that are set by Congress.

I am asking you why, of all the Federal agencies, you were the only one who did not set a goal for the 8(a) program despite the fact that an executive order was issued by the president of the United States in the year 2000?

Mr. ALDRIDGE. May I answer now?

Ms. VELAZQUEZ. Sure.

Mr. ALDRIDGE. We set a goal. We set our own self-imposed goal because internally I arrived here in the Department of Defense in May of 2001. Almost immediately I issued this memorandum to go out to the various departments setting goals, setting a process, and setting a way to report upon their achievement of the process. We set our own internal goal because there was not one, there was not one in the Department of Defense.

Why it was not established by the time I got here, I have no idea. All right?

What is interesting is that we had the same objective yet we seem to be fighting each other, trying to get to the same goal. I am here to try to achieve those goals. I have tried to tell you realistically what I think we can do, and we have an initiative underway to make that happen. I am not against small business.

Chairman MANZULLO. Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman, and let me thank you for holding this hearing. And Mr. Secretary, Mr. Ramos, I want to thank you gentlemen for appearing.

There is a common perception among most people that I know who monitor small business activity and who monitor the relationship of small minority, women-owned businesses to the federal government that the Department of Defense has the worst record of all agencies within the federal government, that there is none worse.

How would you respond to that characterization?

Mr. ALDRIDGE. In December of 2000, there was a women- and minority-owned businesses did a vote that considered the Department of Defense the premier government agency promoting multicultural business opportunity. So the perception apparently is different from many minority and women-owned businesses about the role of the department.

This year, we achieved the most funding for small businesses in the history of the department, \$51.8 billion went to small businesses, of which, as I mentioned before, 54 percent of those are prime contracts. That is not a record of somebody—of an agency that is against small business. We are promoting small business. We need small business. They are the innovative companies that we try to solicit.

We have set goals, and like I said, in the Joint Strike Fighter, a program that could be as big as \$200 billion of funding, for 20

to 30 percent small businesses. All of the activities we have are aimed at trying to promote small businesses as an essential part of our industrial base. It is not that we are against small business. We are trying to do all we can, but we are trying to do it by setting realistic goals for ourselves.

Percentages do not mean much to me up there. The dollars that go into the—how much money are we giving into the small business is the important part, and hopefully turning small businesses into big businesses some day.

Mr. DAVIS. I agree with you that dollars certainly are a better barometer. But I mean, you could also look at it in terms of how many dollars or how much resource one would have at their disposal that would determine—I mean, if I am a small agency and I have only got a little bit to spend, and I spend a good amount of that, and somebody else got a great deal more to spend, they are going to spend more money than I do, but it does not mean that they are doing a better job of spending with certain entities than I am.

But let me move, and I appreciate the fact that you would disagree with that characterization. Do you have a program—I come from a historically black college and university. I went to a little, small school in Arkansas, as a matter of fact. And many of these schools have had difficulty having access to government resources and doing business with government, doing research, building research capability, interacting.

Do you have a program that reaches out to historically black colleges and universities?

Mr. RAMOS. Yes, we do. Inside of Mr. Aldridge's organization we have the research, technology and engineering side. There is a gentleman by the name of Dr. John Hops, the former provost of Morehouse University in Georgia that is heading that program. He has at his disposal a substantial, let us say a substantial amount of funds that he has engaged with HBCUs and MIs.

He has taken a hard look at that, and we have collaborated on that very issue. We both agree that we need to do let us say a more intelligent way of distributing the money so that we can grow those universities.

We are engaging again through some of the initiatives we have across the board the use of HBCs and MIs as a transfer of knowledge; that is, in one of our programs called Meter-Proge Program, we have a fund that we try to develop small businesses so that they can be more competitive within the Department of Defense.

So we are looking at how to broadcast, if you will, that knowledge that we are investing into HBCs and MIs, and including the Native Americans. It is an asset that we are going to clearly go after, and we have engaged some discussions with them already.

Mr. DAVIS Thank you very much.

Mr. Chairman, I see that the red light is on, but could I conclude with this question?

You mentioned earlier that if one really wanted to deal effectively with the whole business of contract bundling, and as far as I am concerned, it is a contradiction that that it is a policy that will never work in terms of trying to promote small business devel-

opment. I mean, it is like saying to me if you want to promote ice-boxes, go out and buy a refrigerator.

But you did mention breaking contracts up into smaller segments, and dispersing those in a meaningful way throughout an industry rather than one of two entities being able to hog the whole show or get the whole thing.

Are you having experience with doing that? I mean, is DoD attempting to do that in compliance at the same time with government policy and regulation?

I am saying if the boss is telling you, I want you to bundle these contracts, and at the same time is telling you, I want you to promote small businesses, that sounds to me sort of like saying make bricks with no straw.

Mr. ALDRIDGE Well, I think the boss has told us very clearly what the guidance is; the boss being President Bush. He says he is against bundling. I think that is a very clear guidance that is going to go down through the Department of Defense, that if somebody finds a reason to bundle, they better have a very, very good reason to go against what the President has told them to do.

Mr. DAVIS Thank you, Mr. Chairman, for your——

Chairman MANZULLO. Thank you very much.

Let me conclude this first panel with the statement that, Mr. Secretary, when you had just been sworn in the FAST contract was just coming into being at that time, and I remember calling you.

Mr. ALDRIDGE. Yes.

Chairman MANZULLO. We sent you a letter and said could you stop the contract. You said, "No, I cannot, but I would be glad to meet with a member of your staff." And you did, you met with Nelson from my staff. And at that time you promised that you would work very diligently on making sure the small businesses were not ignored. You kept your word. The FAST contract, it is over 70 percent of small businesses.

And also, you and Mr. Ramos have been of tremendous assistance in your openness of your department. There is a lot of work that has to be done, a lot of passion on both sides of the issue because we know this is extremely confusing. I do not know if I understand the difference between bundling and consolidation. But to the extent that it injures the small business person, there is no distinction on that.

But again, I appreciate your coming here. Thank you for taking your time.

Mr. Ramos, you are going to be sticking around for the rest of the hearing just in case there is some technical questions that come up you might be willing to help us out on.

Mr. RAMOS. Yes, sir.

Chairman MANZULLO. Okay, thank you, Mr. Secretary.

Mr. ALDRIDGE. Thank you.

Chairman MANZULLO. I appreciate that.

[Pause.]

Chairman MANZULLO. The Committee will come to order. We lost half of the audience here. That is why I asked how many had come with the Secretary, and three people raised their hands, and I did not think that was the case. I did not think we were that popular, did you?

In any case, we welcome the second panel. The first witness, it is my pleasure to welcome John DiGiacomo. John is my constituent in charge of the Procurement Technical Assistance Center at Rock Valley College, a community college in Rockford, Illinois. And we look forward to your testimony.

The purpose of the lights is to give you five minutes, and if you go over, it goes like this. If you go too much over, then I get more excited and I bang the gavel.

All of your—procurement is a very complicated, a very emotional issue for all of us up here. Mrs. Velazquez and I have spent hundreds of hours working this issue, and I share her passion to make sure that the small business people get their share of it, get their share of the contracts.

So, Mr. DiGiacomo, we look forward to your testimony.

**STATEMENT OF JOHN E. DIGIACOMO, PROGRAM DIRECTOR,  
PROCUREMENT TECHNICAL ASSISTANCE CENTER**

Mr. DIGIACOMO. Thank you.

Chairman MANZULLO. You have to put the microphone real close to you, John. It has got to be closer than that.

Mr. DIGIACOMO. Closer than that.

Chairman MANZULLO. There you are.

Mr. DIGIACOMO. Is that better? Thank you.

Mr. Chairman, Ranking Member, Members of the Committee, my name is John DiGiacomo, and I am with the Procurement Technical Assistance Center at Rock Valley College.

We assist small business in doing business—

Chairman MANZULLO. Could you suspend a second?

Phil, would you go get Mr. Ramos, maybe rescue him from outside so he can have the opportunity to sit and listen to the testimony? I think that was his plan. If you would suspend just a second.

Mr. DIGIACOMO. Sure.

[Pause.]

Chairman MANZULLO. Please go ahead.

Mr. DIGIACOMO. Myself and my other colleagues at the 88 other procurement programs around the country work closely with small, minority, women-owned and veteran-owned businesses to do business with the Department of Defense and other government agencies. We see on a daily basis all the obstacles, all the problems, and all the successes that small business has in doing business with the government.

I am grateful for the opportunity to share our experience and our clients' experiences with you today.

How important are small businesses to our nation's health and economic welfare? In 1984, Congress addressed this very issue that we are discussing today, how to expand small business participation, and created the PTAC Program. At that time—

Chairman MANZULLO. Hang on just a second.

Mr. DIGIACOMO. Okay.

[Pause.]

Chairman MANZULLO. Would you proceed?

Mr. DIGIACOMO. Thank you, Mr. Chairman.

Chairman MANZULLO. I appreciate that.

Mr. DiGIACOMO. We assist small businesses in doing business with the government. In 1999, the most recent year that we have procurement figures nationwide, we have assisted in bringing to the small businesses over \$6.8 billion in contract awards. These award figures are based on letters that we have received from our clients voluntarily that they send to us on a monthly basis telling us what they are doing with the government from the assistance that we provide.

I have here over 100 copies or 100 letters of—award letters from my clients that they have given to us, and this is just from my one small center. You can imagine the impact of the rest of the country with all 88 procurement centers.

The PTAC continually draws new companies in. You mention the ProCon Conference. We had over 240 attendees to that conference. Over 100 of those companies signed up to do business with the government. Those were small minority, women-owned businesses that are in the process now of becoming qualified to do business with the government.

The results that we have had with the Department of Defense have been mixed. For the most part in dealing with the government agencies, the contracting officers, they have been positive. But we have had some systematic problems: Contract bundling, there has been a sharp decrease in the amount of total contracts that we have seen going to our small business; rule manipulation that have eliminated small business from being able to bid on contract; credit card micro purchases where we cannot—we cannot get the list of credit card holders to be able to market to them.

The procurement centers are there to assist small business. We have been around for about 17 years, and in my area alone I cover 13 counties with over 6,000 businesses in it. We do this on a daily basis. We are professionals in doing business with the government, and we provide these services to our small businesses daily. We are there to help the Department of Defense and Congress to achieve the goals that they wish to achieve.

If you have any questions, I would be more than happy to answer them.

[Mr. DiGiacomo's statement may be found in the appendix.]

Chairman MANZULLO. Thank you for your testimony.

Our next witness is Cathy Ritter representing the American Council of Engineering Companies. Look forward to your testimony.

**STATEMENT OF CATHY S. RITTER, PRESIDENT, THE  
CONSTELLATION DESIGN GROUP, INC.**

Ms. RITTER. Thank you. Good afternoon, Chairman Manzullo and Ranking Member Velazquez, and Member of the Committee.

My name is Cathy Ritter, and I am a registered professional engineer, and president of The Constellation Design Group, a small woman-owned engineering firm in Maryland. Today, I come before the committee representing the American Council of Engineering Companies, which is a business association of America's engineering industry, and we represent more than 5,800 private engineering firms.

The ACED members deliver vital infrastructure services to the American public and to the military, including the design of roads, airports, power plants, waste water treatment facilities, the safe disposal of unexploded ordnance, the clean-up of Super Fund sites, and most recently, the clean-up of Anthrax from the Hart Senate Office Building.

More than 60 percent of ACEC members, or 4,000 firms, are small businesses, and I mean very small businesses because we have fewer than 30 employees.

The Department of Defense procures over \$2.1 billion in engineering services annually, which is a significant potential market for our membership who operate as both primes and subconsultants.

As a small business owner myself, I am extremely pleased with President Bush's agenda for small business, which speaks to many of the obstacles that hinder us from contracting with federal agencies, and specifically, the Department of Defense.

The firms of ACEC are pleased with the President's comments on two matters that are of concern to small private engineering firms: contract bundling and the practice of government agencies performing work that is readily available in the private sector.

The federal government's practice of consolidating projects into one large contract, or contract bundling, is a major obstacle to small engineering firms attempting to do business with federal agencies. DoD's practice of bundling or consolidating contracts makes it almost impossible for small business to compete as we often lack the range of disciplines and geographical reach which is necessary to successfully fulfill the parameters of these contracts. As a result, we believe that DoD is eliminating many of the most qualified competitors.

In many cases the designer best qualified to handle a project is a firm that is located close to the project site. A local firm's knowledge of such details as the soil characteristics, the climate, the permitting process and local construction practices results in the purchasing agent receiving the best quality service for the best value.

Bundled projects, however, are often awarded to a firm which is half a continent away. At best, the local firm becomes a sub. DoD should not trade the quality and innovation of small businesses for administrative convenience.

For similar reasons, ACEC is concerned about the increased use of large indefinite quantity contracts. Several years ago a number of federal agencies began to use ID/IQ contracts for a certain base period with an option of additional years. Specific projects are not identified, but are usually small and do not seem to the agency to warrant advertising and selection of a design firm on a specific project basis.

However, DoD is increasingly relying on ID/IQs as a primary contract vehicle and is pricing these contracts in such a way that small firms cannot compete. We are effectively shut out from much of this work when the contracts call for multiple year, multi-million dollar awards with no specific projects or facilities in mind.

One such example of an ID/IQ contract comes from a NAVFAC solicitation from 2001. The solicitation states, and I quote, "The majority of work will be located within the Commonwealth of Vir-

ginia, the State of West Virginia, the Commonwealth of Puerto Rico, Western Europe, and may include the State of North Carolina, the States of Delaware, Pennsylvania, New Jersey, New York, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire, Maryland, the District of Columbia, or at locations under the cognizance of engineering field activity in the Mediterranean——

Chairman MANZULLO. Could you suspend?

Ms. RITTER. I sure will.

Chairman MANZULLO. Is this type of contact language still going on?

Ms. RITTER. This is from 2001.

Chairman MANZULLO. If you have something that is more recent, could you get that to me personally?

Ms. RITTER. Yes.

Chairman MANZULLO. And I will talk to the Secretary personally and Mr. Ramos.

Ms. RITTER. Be happy to.

Chairman MANZULLO. And put an end to nonsense like this. I mean, I am serious. This is the reason—this is the reason we are having this hearing, because I want the exact, the right thing to do, and we will take small businessperson by small businessperson, clause by clause until we help the secretary stop the bundling that is going on. It is obvious that this clause is intended for big guys and to smoke the little people like yourself.

So if you could give me something that is later than that, then I want to find out who got the contract, and maybe we will try to end the contract by saying it was illegal.

Okay, go ahead. I took some of your time, but it is going to be yours. Thank you.

Ms. RITTER. I am almost finished anyway.

Well, my obvious next point is that such a large geographical region excludes all small engineering firms.

It is ACEC's hope that all DoD contracting agencies will properly evaluate proposed work associated with the ID/IQ contracts such as this, and refrain from bundling projects that span such a large geographical area, or entail numerous disciplines and solicit professional services based on the specific services required.

The debate that is currently taking place regarding the outsourcing of government commercial activities occurs at a critical time. As federal agencies face tighter budgets and a looming human capital crisis, the need to efficiently allocate resources has become increasingly important.

ACEC is pleased with DoD's commitment to outsource work that is not inherently government, but is deeply concerned about several attempts by lawmakers to stop outsourcing in its tracks.

Over the past two years amendments were offered to the DoD authorization bill that aimed to restrict DoD's ability to contract services with private industry. These amendments would have required that all DoD contracts go through a lengthy public/private competition process commonly known as A-76. The amendments will increase the time and expense for design firms seeking to provide services to DoD, and would put many small firms out of business before they ever received the contract.

Perhaps most importantly, these efforts tie the hands of the DoD and prevent it from procuring the best services available to fulfill its national security mission. We ask each member of this committee to oppose any type of amendment or bill that would seek to restrict the federal government from contracting with private industry.

Finally, I would like to thank the committee for inviting ACEC to testify today. We appreciate your efforts on behalf of the small business community, and thanks again for this opportunity.

[Ms. Ritter's statement may be found in appendix.]

Chairman MANZULLO. Thank you very much.

The next witness is Ms. Pamela—is it Braden?

Ms. BRADEN. Yes.

Chairman MANZULLO. President of Gryphon Technologies in Arlington, and look forward to your testimony.

#### **STATEMENT OF PAMELA BRANDON, PRESIDENT, GRYPHON TECHNOLOGIES**

Ms. BRADEN. Thank you. Mr. Chairman, Ranking Member Velazquez, and Members of the Committee.

My name is Pam Braden. I am the president of Gryphon Technologies, a woman-owned 8(a) certified small business. My firm performs a wide range of engineering services for the federal government, principally the Navy. Prior to forming Gryphon, I worked for over 20 years in marketing and contracts for three different government contractors.

I am here today on behalf of the Professional Services Council. I serve on PSC's board of directors, and PSC serves as a leading policy advocate for our industry, commenting on the impact of legislation and regulations on both our industry as a whole and on PSC members specifically.

Some firms such as mine prefer to be prime contractors. Others prefer to be subcontractors. Still others prefer just to get business. Small business is getting a share of the federal government procurement market, although it is not clear that we are getting a fair share. I do not believe that the creation of additional small, minority, veteran and women-owned set asides would solve this problem. I believe we need to enforce the regulations that are currently in place.

The federal procurement process is complex and is constantly evolving. There has been a significant growth in the use of large multiple award contracts, task orders and blanket purchase agreements, replacing the more traditional requests for proposal, the RFP process.

These consolidated contracts, BPAs, have significantly higher ceiling values than the previous issued RFPs. In some instances the contract values are measured in billions rather than millions. When these contracts have been consolidated, the small business contracts, and sometimes the 8(a) contracts get rolled into the MAC/BPAs. When they are competed, it's under an open MAC/BPA competition, and the quotas under prime/sub agreements are not enforced.

In addition, in evaluating the proposals submitted, procurement officers are not required to give any preferential treatment to small



or minority businesses. Therefore, we are forced to compete head to head against large contractors, such as Lockheed Martin and Northrop Grumman for these contracts, for the same contracts that were awarded to us previously as small business.

Changes focusing on only one element of the procurement system often have unintended consequences in other areas. Therefore, it is appropriate that this committee and other specialists in the federal procurement process look carefully at how small businesses are approaching the federal marketplace, and how the federal government is responding to small business needs.

I would like to focus my remarks on three major issues: federal sourcing policy, contract bundling and contract finances and payment.

Over the past decade the government has made significant strides in sourcing policies. The advent of best value contracting and increasing awareness of and desire for innovative solutions have helped the government access cutting-edge capabilities to better serve its many constituents and customers. At the same time these and other trends have also helped hundreds of small businesses develop and thrive.

Today, however, there are unprecedented threats to growth and development of small businesses in the federal marketplace, including H.R. 721, the so-called TRAC Act, a radical and devastating piece of legislation. It would do nothing to improve the quality of government contracting while forcing scores of companies, particularly small businesses, out of the federal marketplace.

My messages to this committee is to do all you can to ensure that the TRAC Act, or any part of it, or any variation of it, never sees the light of day.

There is no question that small businesses are deeply concerned about the impact of contract bundling for prime contract opportunities. This committee has initiated legislation that provides a solid foundation for addressing the issue in a balanced and fair manner.

In the Small Business Reauthorization Act of 1997, Congress authorized contract bundling only if it is necessary and justified based on the benefit analysis.

The PSC is concerned that precious little guidance or training has been provided to the acquisition workforce to enable them to understand and follow the bundling rules. We compliment the DoD Office of Small and Disadvantaged Business Utilization for its January 2002 benefit analysis guidebook. Acquisition teams can use this in assessing elements of bundling laws and regulations, analyzing the substantial benefits standards required by the law, and in describing ways to mitigate the impact of bundling on small businesses.

Overall, the guidebook is reasonable, and will be useful to procurement officials, even though it does not address BPA contracts or small business set asides within the MAC and BPA process. However, it does not appear that procurement officials have had an opportunity to implement or enforce this since it was released in January of 2002.

Therein lies what we believe to be the most important issue—the need for more aggressive and focused guidance and training so that the statutes are actually put into practice.

Chairman MANZULLO. Conclusion.

Ms. BRADEN. Contract financing and payment issues. Contractors should be paid on time for work performed according to a contract. All government service contractors face the issue of late payments, but for obvious reasons it is an issue of special concern to small businesses that do not have the resources and reserves to cover expenses when payments from government customers are late.

Payment has improved because of the changes to the Prompt Payment Act. In addition, there have been special payment challenges for service contractors.

The Department of Defense is now subject to interest under prompt payment rules. Businesses providing services to the civilian agencies do not receive the benefits of this law. PSC encourages Congress to extend government-wide the benefits of the interim payment provisions that are now applicable only to DoD.

In conclusion, thank you again for the invitation to PSC and for myself, and allowing me to present my views in these important matters. Thanks.

[Ms. Braden's statement may be found in the appendix.]

Chairman MANZULLO. Appreciate your comments. Thank you.

Our next witness is Mike Tucker, owner of George W. Allen Company. Oh, okay, our next witness will be introduced by his Congressman, Mr. Bartlett. Forgive me.

Mr. BARTLETT. Thank you very much. We have two Maryland witnesses here; one, my constituent; the other in the state that I represent. Welcome to both of you.

Mike has a degree in business administration at the University of Maryland, 1972. That was exactly 20 years after I got my doctorate at the University of Maryland. Mike and his wife Cheryl are life-long residents of the State of Maryland, and have resided in Howard County in West Friendship for the past five years. Mike and Cheryl have five children: Kay is 23; Katie, 19; Haley, 16; Anna, 12; Brian, 6.

His career in the office products industry spans 28 years with 15 years spent with a manufacturer, one year with a national chain, and most recently 12 years as an independent dealer. Mike is the president and owner of GWA located in Beltsville, Maryland, and has a staff of 45 employees, a number of which also live in my district. Thank you very much. He has been a member of National Office Products Association board of directors for the past three years and has chaired the Government Advisory Council since its inception three years ago. Mike has been a member of the Independent Stationeries, a buying group supporting independent dealers all across the country for the past five years. Mike has been a member of the General Services Administration's Vendor Steering Committee for the past two years, and currently serves as Chairman—

Chairman MANZULLO. Are you always—

Mr. BARTLETT [continuing]. Of its Small Business Committee.

Chairman MANZULLO. Thank you very much. Well, we expect some great testimony from the introduction.

Mr. TUCKER. I think I have been set up. [Laughter.]

Chairman MANZULLO. If you want to flip the microphone around. Oh, you got it right there, okay. We look forward to your testimony.

Mr. TUCKER. One is more than enough. Thank you.

**STATEMENT OF MIKE TUCKER, PRESIDENT, GEORGE W. ALLEN CO., INC.**

Mr. TUCKER. Well, thank you, Congressman, for that very kind introduction.

Mr. Chairman, Ranking Member, and Members of the Committee, I appreciate the opportunity to testify before the committee today to address the issue of the procurement policy and its impact on small businesses.

My name is Mike Tucker, and I am the owner of George Allen Company, an office supply dealership located in Beltsville, Maryland.

George Allen is a family-owned business, and the company was founded in 1948 by a gentleman named George Allen, no relation to our former football coach.

As an independent office supply dealer, this hearing is important because it will shed light, I hope, on the problems plaguing small businesses in their attempts to do business with the government.

My company has gone from doing 80 percent of our business with the federal government to down to 65 percent just in the past three years. There is a reason for that. The federal government is simply failing to meet its small business contracting goals. This loss of business is significant to a company like mine.

I estimate this loss cost my company in excess of \$1 million annually. This is business that I once had with longtime government customers.

During the six years since the Federal Acquisition Streamlining Act became law, my company has not been able to compete for contracts that we once successfully bid for. Big office supply companies, such as Office Depot and Boise-Cascade, have stepped in to take huge sole-source contracts mostly because of the desk-top delivery requirement which requires a company to provide overnight delivery to at least 90 percent of the country on one of these contracts. This requirement alone limits competition from local companies like mine.

Agencies such as IRS, NASA Goddard, Harry Diamond Laboratories, and the U.S. Postal Service had been George Allen customers for years. Now the only time we get a call from these agencies is for something discontinued or back-ordered by one of their sole-source vendors.

These blanket contracts are negotiated behind the scenes without any small business input or competition. The national chains have convinced many agencies that small office supply companies like mine are not competitive. We are even told by one official at the United States Postal Service, at a time when we were looking at one of their sole-source contracts that independent dealers were irrelevant.

This is simply not true. We belong to buying cooperatives that allow us to leverage our purchasing with several thousand other independent dealers. With \$12 billion in buying power, we certainly can compete on price.

The federal government tells a good story of how they reach out to small businesses. Agencies host conferences and meetings where

hopeful vendors are given lists of contracts and told how many millions and billions of dollars are spent on their products each year. Unfortunately, most of us find out the hard way, that the customers they are trying to land have already been told what large company they must buy from for the next several years. Prime contractors play the same game with their subcontracting plans.

I had the opportunity to see a proposal sent to the Postal Service indicating that the prime contractor was a stocking dealer for 83 small and minority companies. When the final catalogue was issued, only 11 small businesses and 34 items made the cut out of 1500 items. Many of the items listed were products like thermal fax paper and spring-lock metal tab holders. These may be antiques, but they are certainly not big sellers. Again, the plan is designed to sound good but creates minuscule opportunity for small business.

I use the Postal Service as an example, although they are quasi-government entity, they exemplify the current problems we are facing with federal agencies, not just the Postal Service or the Department of Defense.

Mr. Chairman, as you know, the Department of Army recently sent out a solicitation on a \$100 million blanket purchase agreement for office products. Initially, independent dealers were not even considered in the bidding process even though some of us fit the criteria. It was only after you and Ms. Velazquez got involved that independent dealers were able to submit bids.

Mr. Chairman, it took your help to make this happen, and at the end of the day I am told some nine to 10 independent dealers were able to meet the very short deadline and submitted bid.

My company was one of them, and it is my hope that our bids will be reviewed and given the same consideration as our large corporate competitors. If they are, the Department of Army will find that our price is competitive, our service is very good, and our time of delivery will meet their needs. I am hopeful that at least a couple independent dealers will be awarded some of this business.

If we get the opportunity, we can use this contract as a stepping stone to show other agencies that we can meet their needs.

Let me state we appreciate the Army's willingness to do what they did and hope the other branches of military will follow their lead.

I have recently become aware that the Department of Air Force is also planning a similar procurement. Independent dealers would like the opportunity and we hope you will give us some help with that. We just want the same considerations. I am hoping this hearing will help change attitudes and agencies will begin to utilize more small business. Given the chance, we can compete.

Mr. Chairman, to save on time, I have just given you a sampling of the real problems that exist for our industry and small businesses in general when trying to do business with our government. I'm hoping to have the opportunity during any questioning to delve deeper and in more detail to these problems.

Thank you for the opportunity today, and I would be happy to answer any follow-up questions.

[Mr. Tucker's statement may be found in the appendix.]

Chairman MANZULLO. Thank you very much.

Our next witness is Frederick Erwin who is an attorney, an expert on these affairs, and we look forward to your testimony. Thank you, Mr. Erwin.

**STATEMENT OF FREDERICK ERWIN, PROGRAM MANAGER,  
CAMP INC.**

Mr. ERWIN. Thank you, Chairman Manzullo, Ranking Member Velazquez, Member of the Committee.

My name is Frederick Erwin, although my mother never used that unless was mad at me. She called me "Deane." Thank you for giving me an opportunity not to talk so much about a procurement issue directly, but one that is involved with procurement, and that is electronic commerce training and assistance to the small business by the federal government. In doing so, I would like to discuss this important issue that you recognize by virtue of calling these hearings from the prospective of a program that provides invaluable assistance to small business.

The program I am referring to is the recently suspended Electronic Commerce Resource Center Program, which was funded by Congress and operated under a contract through the Defense Logistics Agency.

The ECRC Program was to provide education, training, technical support to small businesses and enable them to learn about and more effectively participate in e-government. I would like to acknowledge that small businesses do have greater visibility and access to some federal procurements since October of last year through the government-wide single point of entry called FedBizOpps, which I believe you were briefed on recently.

However, as helpful as the FedBizOpps internet site is, it does not resolve all of the challenges facing small businesses today in the electronic business environment. This fact is highlighted by the recently released SCORECARD III, the GAO report to the Senate Small Business Committee which was issued last fall, and the University of Scranton survey conducted in January and April of this year.

Such reports and surveys support the need for small businesses to become electronically enabled. It is critical not only to the success of the small business, but also the success of any e-government initiatives. Existing public resources should be leveraged to enable small businesses to seize their electronic commerce opportunities, meet the new generation of electronic challenges, and enable small businesses to participate in government contracting as stated by the President and members of this committee.

The ECRC Program has assisted over 400,000 small businesses in the past five years, and only recently been discontinued. Many of the relationships, personnel, infrastructure, tools, training programs and support capabilities are still in place. This valuable resource represents many years of government investment and is still available to provide assistance to small businesses. However, urgent action is required as these resources will quickly erode, and are on the verge of being lost. We cannot and should not allow this resource to be obliterated.

I am not proposing a continuation of the ECRC Program as they currently existed, but in its place I am recommending the estab-

lishment of a new program that uses the former ECRC Program as a springboard that will offer a more advanced level of assistance. I am proposing that you take action to leverage the infrastructure and knowledge gained through the ECRC Program and establish a program that focuses that knowledge towards serving the needs of small business through existing program such as the Procurement Technical Assistance Program mentioned earlier by another witness.

The new program would focus on using contacts, skills and lessons learned to assist small businesses in becoming electronically enabled from an integrated business standpoint. No other program exists today that will meet the small business needs. Such a program would have the availability to build an "arcade" of small businesses to support many government procurement. More specifics are provided in my prepared statement, which I have provided to this Committee.

In closing, I would like to urge you to recognize the valuable government assets that exists today in the ECRC Program and that is about to be disseminated. Small businesses have a need for such a program and these needs have been documented in several independent reports. Please do not let the needs of small businesses go unanswered.

Again I wish to thank the Chairman and the members of the committee for permitting me to come before you today. I would be pleased to answer any questions the committee may have.

[Mr. Erwin's statement may be found in the appendix.]

[Pause.]

Chairman MANZULLO. Sorry about that; just got your testimony.

Our next witness is Mr. Bill Cabrera, President of Lord and Company in Manassas, Virginia, and we look forward to your testimony.

#### **STATEMENT OF BILL CABRERA, LORD AND COMPANY**

Mr. CABRERA. Thank you, Mr. Chairman, and thank you, Ranking Member Velazquez, for the opportunity to testify before you today.

My name is Bill Cabrera. I am president of Lord and Company, a graduated 8(a) construction firm out of Manassas, Virginia. I have worked in this industry for 28 years; 20 years with Lord and Company. I am pleased to share with you my experience as a contractor with one federal agency in order to bring awareness to some aspects of the procurement process which may need your attention.

I would like to talk about two incidents which I believe are examples of how the government can unfairly harm small companies enough to put them out of business.

First, through the ID/IQ, indefinite delivery/indefinite quantity procurement program: Under this program an agency often maintains a stable of three or four companies under contract with the flexibility to negotiate a project with one company or solicit bids from selected companies. When the contractor receives an order he is under increased pressure not to question or upset the government representative for if you do you will simply not get any additional opportunities to do work under the contract, and you face the

strong probability of a bad past performance rating, which affects your entire future in government contracting.

The threat of this occurring puts small companies practically at the mercy of government inspectors who are aware of their power over the small company who can then change requirements and conduct themselves in any manner whatsoever.

This was my experience with an ID/IQ contract at Walter Reed Medical Center. Specifically, we received a fast-track delivery order to convert a large barn into a sports facility. Although we met about the project some four months before its completion, it took seven weeks to get us preliminary drawings and three additional weeks to give us pricing drawings. As required by contract, we priced the project in five days. After negotiating the price as much as they could, the government reduced the price even farther by deleting items from the scope of work.

Within a week after negotiations and after receiving the firm-fixed price delivery order, we were given a new set of drawings which not only included the items which they had deleted during the negotiations, but added a significant amount of work to the project.

With six weeks left to complete the job and based on implied commitments made during a recent partnering session with the government, we proceeded with the work as required. During the course of the project we received several new directives and sketches to address unforeseen conditions, such as extensive termite damage, which required us to replace the siding and several structural members on the facility. The government representative insisted without flexibility in special order items like light fixtures would have to be imported from Denmark at a cost of \$1800 each and 16-week delivery.

Chairman MANZULLO. What was the name of that government officer?

Mr. CABRERA. The government officer was——

Chairman MANZULLO. The person who wanted you to import that stuff from overseas?

Mr. CABRERA. It is Mr. Fleri, Mr. Neno Fleri.

Chairman MANZULLO. Would you spell his name, last name, please?

Mr. CABRERA. F-L-E-R-I.

Chairman MANZULLO. And what department is he with?

Mr. CABRERA. He's with the JOC branch of the Walter Reed Army Medical Center.

Chairman MANZULLO. What is the JOC branch? What is that?

Mr. CABRERA. Job Order Contract.

Chairman MANZULLO. So he is an Army employee?

Mr. CABRERA. He is a Walter Reed employee.

Chairman MANZULLO. He is a Walter Reed employee?

Mr. CABRERA. Which falls under the Army, yes, sir.

Chairman MANZULLO. Is he still there at that position?

Mr. CABRERA. Yes, sir.

Chairman MANZULLO. Can you give me the purchase orders of the stuff coming in from overseas that go into American facilities?

Mr. CABRERA. I will be more than happy to.

Chairman MANZULLO. Has it been delivered yet?

Mr. CABRERA. It has been delivered and installed, sir.

Chairman MANZULLO. And you installed it?

Mr. CABRERA. Yes, sir.

Chairman MANZULLO. Alright, because I want those orders. I am going to have him here before this Committee. He apparently is in violation of the Barry Act. I do not think the Barry Act applies to this, but I want to find out why he is buying stuff from foreign countries for installation in American facilities.

Mr. CABRERA. These are light fixtures, very simple.

Chairman MANZULLO. These are light fixtures. Would you work with Mrs. Velazquez and me in preparing the letter?

Mr. CABRERA. I would be happy to.

Chairman MANZULLO. Because we are going to prepare the letter, we are going to send it to him. We are going to ask him to meet with us in our office. If anybody is here that is in charge of him, if he does not meet with us, I am going to issue a subpoena duces tecum, take his testimony under oath.

This stuff is going to stop. Anybody here in the service that does that, you will personally come into my office. I will put you under oath, and I will have your job if this nonsense continues in the United States of America.

Please continue, Mr. Cabrera.

Mr. CABRERA. Thank you, Mr. Chairman, and thank you for your comments.

They were not the only things we had to order. We ordered some thoracic shower basins, also high cost, long-lead item.

The government representative also required us to change the color of bathroom tiles after we had already purchased and had the tile delivered and on site. He made us change the color of the ceiling paint after it had been painted, all the while we were denied a place to put a construction trailer or a storage trailer, having no place to store our material, having to store it outside under tarps where petty thefts would constantly run off with our material.

Never did it occur to us that in the end of—at the end this new partner of ours would refuse to issue a change order to cover the cost of the new directives.

In another delivery order under the same contract we were asked to revise our previously submitted quote for miscellaneous work at the commissary. We were to include a quote for automatic doors which the government had received from a contractor who had been servicing the old doors. We were just the middlemen.

In September 2000, six months after we had revised our proposal, we were notified that they had received the funding for the project, and at a meeting with the client the door contractor and the job branch representative, we were told we were to complete the project prior to Thanksgiving. The door contractor felt he could meet this schedule if we ordered the doors immediately.

So we issued him a purchase order. When the delivery order was received some six weeks later, it did not include the cost of the doors. Immediate inquiries led us to believe that this was being corrected, but it never happened. What followed was countless meetings, phone calls, letters, and over the next year twice we thought the problem was resolved, only to watch months go by without receiving a delivery order.



In October 2001, I was sued by the door contractor which forced me to seek legal counsel and pursue a claim. Recently, as a result of the claim, the government has again committed to buy these doors. Maybe this time it will happen.

In two and a half years at Walter Reed, we were always denied a place for office trailer and office to work out of, not a place to put a filing cabinet or a fax machine, no place for a dumpster to get rid of the trash or a place to store materials. Payment problems were endemic, taking as much as eight months to get paid, and often asked to resubmit invoices with new dates just so they will not have to pay the interest. Our award fees that were to be processed every six months were taking well over a year to process.

Mr. Chairman, small companies like mine do not have the financial cushion that major corporations do that allow them to sit back and wait for federal checks, nor do we have the legal budget to challenge agencies on issues as they come up. These practices will continue to discourage, even bankrupt small businesses that do a good job and often cheaper than our large competition.

I hope my testimony will give you a better idea of some of the serious problems that face small businesses, and, frankly, we have no place to go to. Legal action or elevating problems to this level cannot be the only way for a small company to be heard. We need to craft solutions so that small businesses are not sidelined or ruined by federal government.

Thank you, Mr. Chairman.

[Mr. Cabrera's statement may be found in appendix.]

Chairman MANZULLO. Mr. Cabrera, I want to work with you on this. I also want to know the name of the person that told you to submit new invoices so that they did not have to pay interest. I think that is fraudulent. That could be a criminal referral to the Department of Justice. I also want to let you know that in your continued dealings with the federal government that should you notice anything unusual that you are being punished for testifying here today, bring that to my attention immediately.

Mr. CABRERA. Thank you, Mr. Chairman.

Chairman MANZULLO. I will contact the Department of Justice, and that has happened in the past to people who have testified before this committee, that they have been punished. They have not been given contracts that should have happened, and I am just shocked at how far this has gotten out of control.

Nydia, will you go first, give me an opportunity to have some water, please?

Ms. VELAZQUEZ. Mr. Tucker, Ms. Braden testified in her remarks that there is no reason for new laws regarding contracting bundling. She states in her testimony that the problem is simply a lack of training and understanding by government acquisition personnel.

Do you agree with this assessment?

Mr. TUCKER. Not in our industry, that is not the case at all. Thank you.

Before FASA was passed five—six years ago, small businesses like ours competed very successfully in the federal government market alongside large companies like Office Depot, and Staples. When FASA was passed, it created a couple of new legislative situ-

ations, one in particular, the micro purchase procedures, which required no competition for orders under \$2500. You did not have to do any type of formal procurement procedures. You could buy from a small business or a large business. For our industry that is probably 95 percent of the purchases, so it hurt us dramatically.

And now instead of those procedures we have goals, and those goals, as we hear from DoD, can be arbitrary, may not be enforced. They change from agency to agency, year to year. And without some kind of consequence or accountability on these issues, I do not see how it is going to change. I think there needs to be some type of a legislative solution.

Ms. VELAZQUEZ. Thank you, Mr. Tucker.

Ms. DiGiacomo, in your testimony you state that there has been a sharp decrease in contract opportunities appropriate for small businesses as the department relies increasingly on consolidated mega-contracts. Yet Mr. Aldridge testified that bundling only accounts for .2 percent of defense contracts.

How do you explain the differences in what you are seeing and what Mr. Aldridge has testified to?

Mr. DiGIACOMO. Well, in the nineties, the federal government wrote approximately 15 to 18 million contracts per year. Last year our government wrote about 10.5 million. That is a significant decrease to me. I do not know if all of those are being bundled. We have no figures on that to be able to verify it. We know that some of these are being bundled, but there has been a decrease, and we are seeing it. Our small businesses are not able to compete.

Ms. VELAZQUEZ. Thank you.

Mr. Tucker, I would like to highlight a point you make in your testimony. Your government sales have gone down from 80 percent three years ago to 60 percent. That is not because your prices were not competitive, is it?

Mr. TUCKER. No, not at all. As I mentioned, we belong to buying cooperatives that have enormous buying power, more than any of the large companies that I mentioned individually, and the contracts that we are not given the opportunity to quote on or the agencies were not allowed to sell, it has nothing to do with the price. They are awarding these blanket purchase agreements for convenience. I realize agencies have smaller procurement staffs and things like that, but they are using that as an excuse to bundle or consolidate the procurement process. You get into a situation where the pricing, the management level of these agencies is being shown is very low on high visibility items. Very much like a grocery store pricing, the lesser known items are priced much higher. And then when the contract is awarded, and most of these are five-year contracts with one year renewals, these contracts go on for a long, long time, and believe me, those preliminary low prices are made up long before those contracts are over.

But it is not the pricing issue that is keeping us out at all.

Ms. VELAZQUEZ. Thank you.

Ms. Ritter, how do you believe that the President's small business agenda will help small businesses?

Ms. RITTER. Well, I think the words that he spoke and the directives that he gave to the federal agencies were that they needed to pay more attention to small businesses. I think that gives us an

opportunity to come and speak. You know, there have been years in the past when we could not even get the opportunity to come in and speak. So I think at least attention has been focused on small businesses, and I think small businesses across the United States, small business owners feel—oh, gosh, I hate to use this word—empowered a little more to speak up and feel like that they can, and that they will finally make a difference.

Ms. VELAZQUEZ. Ms. Braden, how many members of the Professional Services Council have less than 500 employees?

Ms. BRADEN. Thirty-five, I think.

Ms. VELAZQUEZ. Thirty-five.

Ms. BRADEN. Yes.

Ms. VELAZQUEZ. How many of those companies have contracts with the Department of Defense as prime contractors?

Ms. BRADEN. A large number.

Ms. VELAZQUEZ. Does the Professional Services Council support Representative Tom Davis' service acquisition format? Do you have a position on that? You do?

Ms. BRADEN. Yes.

Ms. VELAZQUEZ. Thank you.

Ms. BRADEN. We have been supportive.

Ms. VELAZQUEZ. Thank you. No more questions, Mr. Chairman.

Ms. BRADEN. Thank you.

Mr. BARTLETT. Thank you very much. From the testimony of at least two of our witnesses, I gather that we have a problem with justify bundling or consolidation, and I agree that those two words might be interchanged. One person's consolidation may be another person's bundling.

The example I referred to, I do not think you can criticize. When our agencies cannot procure up-to-date equipment because the government procurement cycle is so long that by the time we get the equipment it is already obsolete, that they are then forced to go to a performance contract. If you are going to do a performance contract, it is necessarily a big contract. But the Marine Corps and Navy did reissue the RFP, and giving 35 percent of all of those contract dollars to small business and 10 percent of it direct pay.

We also had a similar discussion with the NSA, with reasonably the same outcome and expectations. NSA, exactly the same problem; they just could not keep current with their equipment because our procurement cycle is too long.

But other industries do not have that kind of a problem. For instance, Mike, your sales of office equipment reminded me very much of the problem that movers had when DoD decided to issue a single contract for moving household goods. Now, obviously, there is nobody in the world who can move all of the military's household goods in the world.

What we used to do is have an RFP and companies compete, and somebody won, and the person who won could deliver as many—you know, could do as much as he could do, which obviously was a tiny percentage of the total work to be done. Then any other contractor could come in and deliver household goods at the same rate. I would think that that would be a reasonable analogy for the problem that you all have.

Why do you think they have to go to these big single-source blanket contracts rather than doing what our moving people used to do? Simply issue an RFP, have a lot of people like you compete, somebody is going to win. They are going to, you know, bid to deliver it better and at lower cost. And then anybody else who wants to can compete at those same levels. Why would that not be a reasonable way to let small businesses participate here?

Mr. TUCKER. I think it is a very reasonable way. I cannot answer a question why they would not pursue that path. But there seems to be a thing here where once a contract like this has been negotiated, there seems to be a need or a desire on the part of the people that negotiate it to defend their position, what they have done. They have done this to save the agency money and time and so on and so forth.

And as I said before, if you ask people in some of these agencies at the headquarters level what they think of these new negotiated, sole-source contracts, the people at the management level will tell you this is great, it is saving us lots of time and money, and manhours, and all the rest of it. Then you talk to the people with the credit cards that are placing the small purchase orders, and they are just the opposite—they hate it. It is dreadful, they have service problems, they cannot get their bills straightened out, they get substitutions.

So to address your point, I would love to see something along those lines offered. You know, that would certainly be a way to do it and to, you know, possibly break this up, or have it renegotiated.

Mr. BARTLETT. Mr. DiGiacomo, do you think that there is a possibility of requiring a justification for these consolidated—I know that you now have to justify bundling. But you know, consolidation could be bundling. If we had to justify that, I do not think in the case of moving and in the case of office furniture that it is easy to justify a single contract for the whole world. I would think what we used to do for moving is a reasonable thing to do, because to make it more convenient for the government purchasers to just let a single contract, you know, that really now is denying access to many small businesses.

If everybody had that kind of an attitude, Bill Gates, working out of his garage or was it his basement, would never have become Microsoft. You know, we just have to give an opportunity to these small businesses. We have to find a way to meet the government's needs while still not excluding small businesses from competing.

Do you think that by regulatory reform that we could reach this objective, or do we need some legislative reform from committees like this?

Mr. DIGIACOMO. I firmly believe that there has to be some kind of justification for bundling contracts of any type. It hurts my small businesses. They are not able to compete. We have situations where small businesses just—they do not even bother to try anymore.

We, in Rockford, are trying to set up a coalition of small businesses that can bid on some of the larger contracts, and it is very difficult to get these small businesses to work together because they are very entrepreneurial and independent-minded. I hope that answered your question.

Mr. BARTLETT. Thank you, Mr. Chairman. Everybody is for efficiency, but when that efficiency eliminates competition that brings the skills and entrepreneurship to the government, you know, that is moving in the wrong direction, and maybe we can be a factor in changing these regulations so that small businesses can continue to contribute as they have in the past.

Chairman MANZULLO. Well, I think we are making an impact. I think somebody at Walter Reed is not going to be very happy with me today, but that is tough.

Congresswoman Millender-McDonald.

Ms. MILLENDER-MCDONALD. That is alright, Mr. Chairman, we are happy with you, and you have my vote of confidence on your actions today. I agree with you that something needs to be done to get to the bottom of the inability for small businesses to have contracts by the federal government, and I am appalled at the inconsistency of the Department of Defense and their inability to meet the goals that are set forth through legislation.

Mr. Tucker, as I read parts of your statement with some interest, and the others, you are all talking about the same thing that our congressional hearing that was held in my district just a couple of weeks ago spoke about. That is e-commerce. And it is so important for small businesses to get up and going, and get to be a part of this technology that is going to really drive the economy, so to speak.

But you stated that the federal government is simply failing to meet its small business contracting goals. That is hurting to me sitting here representing the federal government. That particular statement goes through the veins of all of your statements that you have said today, in essence, and you have tried several times to try to seek these contracts. Some of you have gotten them. I have read where others have been met with subcontracting from an Army Corps of Engineer, which in fact that contractor did not pay, and so consequently you sued.

But small businesses should not have to go through with that. Now, maybe that is not some of the statements that I have read here, but I have read it someplace else.

Mr. Chairman, first of all, I would like to suggest to us as the small business committee, and I as a ranking member, that we call into play every department head, secretary, whatever, to this committee to see just how well they are faring on meeting the goals for small business contracts with them.

The DoD was your first. I applaud you and the ranking member on this, but I think every department should come before us so that we can get a clear understanding of whether they are meeting the goals of small businesses, because we all know that small businesses are what make the economy really move. You are the ones who create the jobs, and you are the one that is really the engine.

I would like for you to talk with me, some of you, to tell me just whether or not—how many DoD contracts do you have. I have not read all of your testimonies. And how many of you have sought to get the contracts of DoD and have not gotten them yet.

So can I start from this gentleman here and go all the way down?

Mr. DiGIACOMO. I am actually—

Ms. MILLENDER-MCDONALD. I am sorry. I was not here. I had other markups and other committee meetings I had to go to.

Mr. DiGIACOMO. I assist businesses that want to do business with the government. I work under a Department of Defense grant to help small minority women-owned and veteran-owned businesses. I have a—

Ms. MILLENDER-MCDONALD. What success have you met with?

Mr. DiGIACOMO. I have 741 clients at this time. Of them, about one-third of them actually bid on an ongoing basis, and about one-third of them have been awarded contracts.

Ms. MILLENDER-MCDONALD. And that is with the DoD or with all of them across the board?

Mr. DiGIACOMO. Actually, it is across all the agencies with the majority going to the Department of Defense.

Ms. MILLENDER-MCDONALD. Okay.

Mr. DiGIACOMO. I brought a sampling of 100 contract award letters that we received from our clients, and we do cover an extremely large area. I cover 13 counties or 6,000 businesses in my counties. That is a lot of businesses to be able to cover, and be able to do an adequate job. But we are doing that every day, and we do see a lot of success. And success to a small business is not just getting the million dollar contracts. Success to a lot of my clients is getting the \$50,000 a year contract that keeps the environmental consultant working, or the technical writer.

Ms. MILLENDER-MCDONALD. And how many of those have you been successful in getting?

Mr. DiGIACOMO. A number of them. I have environmental consultants and technical writers who do get government awards.

Ms. MILLENDER-MCDONALD. And the lady to your left?

Ms. RITTER. At the present time I do not have any DoD work. I was trying to wrack my brain. I do not think I have any federal work right now, frankly, and that has been a decision, a business decision made over the last seven or eight years. The red tape got to be too much, and the difficulties in attempting to meet all of the parameters. I am a civil engineer by trade. We design roads and bridges, and that sort of thing, and we are able to keep ourselves busy without getting into the federal market. And to a certain extent, that is sad.

I have been in business 20 years, and I just sort of—the last five or seven years, maybe in my old age I have just gotten tired of trying to do it, and I have kind of written it off.

Ms. MILLENDER-MCDONALD. That speaks volumes of why we are here today.

Ms. Braden, is it?

Ms. BRADEN. Yes, Ms. Braden.

I have—we are a \$17 million company, five years old, and I would say 95 percent of our contracts come from the Navy.

Ms. MILLENDER-MCDONALD. Okay. Mr. Chairman, I see the red light, but can we have Mr. Tucker speak?

Chairman MANZULLO. Go ahead.

Ms. MILLENDER-MCDONALD. Okay, fine.

Mr. TUCKER. Mine requires a little explanation. The way the military used to buy their office products was at supply stores on military bases across the country. Even the Pentagon, used to its

own large supply stores. With the company I used to work for, I traveled around the country and called on those bases, and had large opportunities to sell supplies.

And then as the process the GSA was using changed, and the warehouses started to be eliminated or these stores started to close up, and they were buying more of these products from some of the big GSA warehouses. Our company was fortunate enough to have some GSA contracts to sell supplies to the warehouses, which in turn serviced the military bases.

But since contract, bundling and federal acquisition streamlining happened, whole branches of the military are now being awarded to one company. The Department of Army is negotiating a contract right now, which I mentioned in my testimony, for \$100 million to service all the Army bases in the country. The Department of Navy in San Diego for the last four or five years has had a bundled contract where that whole Southern California Navy complex is served by one dealer, Corporate Express.

Ms. MILLENDER-MCDONALD. So you cannot get anything there through an RFP?

Mr. TUCKER. No. I walk in and I might as well be selling cheese cakes. I mean, they do not want to—and now, as we understand, there is this same situation going on with the Air Force, and we have been trying to contact Wright-Patterson Air Force Base to get some insight on that, and we cannot get the rep to return our phone calls.

Ms. MILLENDER-MCDONALD. So, in other words, the infrastructure that we—

Chairman MANZULLO. Excuse me.

Ms. MILLENDER-MCDONALD [continuing]. Put into place for small businesses to go after contracts has been absolutely cut from under you, and a whole new dynamics has been put into place is what you are saying.

Mr. TUCKER. Exactly.

Chairman MANZULLO. Would you yield a second?

Ms. MILLENDER-MCDONALD. Yes. Of course, Mr. Chairman.

Chairman MANZULLO. What is the name of the person you are trying to call? What is his name?

Mr. TUCKER. Well, I can get—

Chairman MANZULLO. Mr. Ramos said?

Mr. RAMOS. Have him contact me. I will look into it.

Chairman MANZULLO. Thank you. All right?

Ms. MILLENDER-MCDONALD. Thank you, Mr. Ramos.

Chairman MANZULLO. Thank you.

Ms. MILLENDER-MCDONALD. Thank you, Mr. Chairman.

Mr. TUCKER. Thank you.

Ms. MILLENDER-MCDONALD. This is so telling, this is absolutely so telling. We tend to think that once we pass legislation things are in place. We have a lot to do here, folks, so we go on to the next hurdle, not knowing that some of these others that we put into place has absolutely been taken from under us, and from you.

And so I am—I do not think I need to go to the other two. Mr. Cabrera, I certainly heard about—I heard from you. And it is true that you need to be electronically enabled, and yet you cannot even get to first base with that.

Mr. Chairman, I will again ask that we bring every department head into accountability here by having them come before us to suggest what types of contracts, if any, they are awarding to small businesses, and I am very much interested in that.

Again, thank you so much for this hearing. Though I have not been here on all of it, I have read little excerpts from all of the testimony to see that we are in a big problem. Thank you, Mr. Chairman.

Chairman MANZULLO. Thank you. We have asked the GAO to do a study as to the contract bundling of Boise-Cascade. That is B-O-I-S-E dash C-A-S-C-A-D-E, which is sort of a big company, as to the efficiency of it.

And I guess what bothers me is why would the Department of Army want a \$100 million blanket purchase agreement for office supplies. Why cannot they go to the local stores? I mean, this is—Mr. Ramos, this is the policy issue. This is where we start. It is not a matter of just the big boys being able to bid on this and people like Mike Tucker and a few others who have nationwide catalogues are able to get into it. But what is going on here is this smokes hundreds, if not thousands, of small mom and pop stationery stores across the country. For years they supply office supplies to the Department of Army, and all of a sudden some lazy officer—whatever—procurement officer for a matter of convenience says, “Well, let us just have one big contract.” And, oh, that is a great idea.

How many procurement office positions are eliminated at the Department of Army? I bet none are. I mean, this is a matter—if this is a matter of saving money, you can take a look at it. But there is a policy statement here that contracts for pencils and staples and things of that nature, there should not even be any consideration for a large contract.

And what I would like to do, Mr. Ramos, is let us—has this contract been let out yet?

Mike, it has not been let out yet?

Mr. TUCKER. Not that I am aware of.

Chairman MANZULLO. And you are bidding on it?

Mr. TUCKER. Yes, they have had it in their hands for about six weeks now, and we have had a little dialogue, a couple of technical questions.

Chairman MANZULLO. What I would like to do is I would like to write a letter and ask the Department of Army to justify before this contract is let out that it is going to be any cheaper to have a—now this is a bundle. This is a classic bundle, and this is how small people get mistreated in this country, because there are what, 17,000 procurement officers at DoD? Is there that many? Does anybody know? Is there more? More? Does anybody have a guess because I know there are folks here from DoD?

Mr. RAMOS. I think it was around 15,000.

Chairman MANZULLO. There are 15,000.

Ms. RITTER. Fifty-eight thousand, 58,000.

Chairman MANZULLO. Oh, 58,000?

Mr. RAMOS. That is somewhere in terms of the acquisition staff broken down.



Chairman MANZULLO. Okay. But in any case, and I think we have somebody here from Department of Army? Somebody here from Army?

Mr. RAMOS. She just left.

Chairman MANZULLO. She just left. What I would like to do is—perhaps this is interfering in the awarding of a contract. That is great. We are good at interference in this Committee. But I want to see, and I think the taxpayers have a right to know. There should be a letter in writing by the Army justifying this bungle—bundle—bungle.

And Nelson, if you would prepare that letter immediately so that Mrs. Velazquez—yes.

[Pause.]

Chairman MANZULLO. All right, but in any case I understand where negotiations are, but I just do not think this contract should be awarded.

Ms. VELAZQUEZ. Mr. Chairman?

Chairman MANZULLO. Yes.

Ms. VELAZQUEZ. I will propose that we send a letter to Secretary Aldridge, and I requested him, when I was questioning him, to send to us an analysis of the cost saving that the seven mega-contracts will represent.

Chairman MANZULLO. Okay. Well, let us do this then. Let us do a separate letter for each contract. That way it is easier to get it through the agencies. And I think it is time we come to an understanding.

This committee will not rest, we will not rest, we will continue with these hearings. I will do everything I can to bust up this contract bundling.

Now, does anybody know, does it violate some law for this Committee to request the Department of Army to make a cost justification of the bundled contract? And is the Department of Army obligated by law to grant that contract? Can anybody answer me that?

Would you know the answer to that, Mr. Ramos? That is a legal question. I do not know if you—

Mr. RAMOS. I would rather defer answering that. I would rather find out for you, sir.

Chairman MANZULLO. Okay.

Mr. RAMOS. Because we have been having some discussions with the Army on some of these issues, and I would rather prefer to get them to respond.

Chairman MANZULLO. I appreciate that very much. So we will—Mr. Crowther, if you could prepare that letter. Let us start with this one, okay? And we are going to make a statement of this committee that we are going to do everything we can to break this \$100 million contract into as many pieces as there are stationery stores that surround every single Army base in the country. That is where we are going to start to unbundle. And I want, and I am going to instruct the Department of Army in a letter, and I want that answered within 10 days, to give a cost justification for this contract.

If that cost justification is not here within 10 days, we will have another hearing here, and I will continue these hearings until we find out why somebody came up with that brilliant idea to bundle

the contract to put thousands of small businesses out of business in this country.

So we look forward to working with Mr. Ramos. I remember the conversation we had with Deedra Lee. "Mr. Chairman," she said, "there is so much money involved in these contracts that we cannot stay on top of them, and we depend upon members of Congress to bring these abuses to our attention, so that we can move on them."

And I just want to again thank you, Mr. Ramos, for coming, for bringing your staff, listen to the testimony. I want to thank the witnesses for persevering. If anybody here, again, has any indication in your course of doing business with the federal government, if for some reason you are not getting the contracts because of your testimony here, you let me know about that immediately.

Okay, this hearing is adjourned.

[Whereupon, at 4:30 p.m., the committee was adjourned.]

TESTIMONY OF UNDERSECRETARY OF DEFENSE E. C. "PETE" ALDRIDGE  
BEFORE THE U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SMALL BUSINESS  
MAY 15, 2002

Mr. Chairman and Members of the Committee:

I want to speak to you today about the Department of Defense (DoD) and its procurement policies within the small business arena. Accompanying me today is Frank Ramos, the Director of the DoD Small and Disadvantaged Business Utilization office. Director Ramos is my point person on small business policy.

We at the DoD consider small business to be a high priority. The very fact that approximately 88% of all DoD prime contractors are small businesses demonstrates how important the small business world is to this Department. Additionally, our dependence on small business is increasing; in FY 2001 the number of small businesses receiving contract awards grew by 1,825 – an increase of 8.2% over FY 2000. Of these 1,825 additional firms, 584 were owned by women and 355 were located in historically underutilized business zones (HUBZones). We exceeded the statutory goal of 5% contracting with small disadvantaged businesses (SDBs), spending 5.7% of our prime contracting dollars on purchases from SDBs. Small businesses received over \$50 billion of DoD procurement dollars last year, alone. The DoD regards the contributions of small business as critical and invaluable.

There has never been a more vital need for small business support within the DoD. Neither this Department nor our nation could have recovered from the shocking events of September 11<sup>th</sup> so quickly and effectively without the small business community. Small businesses provided the critical surge capacity the DoD needed to begin rebuilding the Pentagon and take on the task of fighting terrorism. These business owners immediately responded to a broad agency announcement issued by my office for new ideas to counter this terrorist induced perturbation. Later I will cite other instances of small businesses answering the call.

In support of Secretary Rumsfeld's Transformation, I have established five goals for the acquisition community. These goals contribute directly to those set forth by the President and Secretary of Defense. One of my goals is to improve the health of the industrial base. Included in that goal is the development of qualified small businesses as prime contractors and subcontractors, recognizing that they are a key part of our overall Defense industrial base. They have great ideas, innovative technology, and can respond to our needs with flexibility, speed, and agility.

To ensure achievement of this goal, I established the Small Business Reinvention Program.<sup>1</sup> My highly challenging policy assigns responsibility and accountability for the Program at the most senior levels within DoD and includes solid metrics for gauging success. Each military department and defense agency is responsible for annual small

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<sup>1</sup> Mr. Aldridge memo to secretaries of the military departments and directors of defense agencies on "Small Business Program Reinvention" dated May 16, 2001. Available at <[www.sadbu.com](http://www.sadbu.com)>.

business improvement plans. These plans detail special initiatives unique to each DoD component that will enhance small business participation. Each DoD component has targets, and performance will be monitored. Under this initiative, the secretaries of the military departments and directors of the defense agencies will report semi-annually to me and I will inform the Deputy Secretary of Defense on their performance against the improvement plans and targets.

It is important that we stay in touch with the concerns of the small business community that supports our requirements. I have, consequently, tasked Director Ramos to establish small business forums. He and his staff have already met with a Wichita, Kansas group of small businesses that produce aircraft components. He has strategized with women owned business leaders, has brainstormed with Native Americans and, since coming to the DoD, has represented the Secretary of Defense on the Board of Directors of the National Veterans Business Development Corporation. These forums identify prime and subcontracting barriers enabling me to discuss and develop recommended solutions with department leadership and the chief executive officers of the major defense firms. Additionally, we appreciate the support from the Small Business Administration and we look forward to working with them in the future.

The Army, Navy, Air Force and defense agencies small business offices are also doing their part to help the Department meet its goals. They, along with over 500 small business specialists across the nation, are my means to transform the small business acquisition culture in the DoD. The Department's specialists will foster a cultural shift in

the attitude of the acquisition workforce towards small business through new teaching modules. Mr. Ramos, in partnership with the Defense Acquisition University, is creating the first small business training module for executives and program managers. These new modules will explain why the Department's acquisition workforce should value the contributions of small business. Future training initiatives will focus on improving the use of Historically Black Colleges and Universities / Minority Institutions (HBCU/MIs) and we intend to reinvigorate training about historically underutilized business zones (HUBZones) – including Native American reservations which are predominately located in HUBZones. They are also developing training modules about contracting with women-owned and Service-disabled veteran-owned small businesses.

I am sensitive to the bundling<sup>2</sup> concerns of the President, the Congress and the small business community. The DoD, within the past month, conducted an analysis comparing dollars expended on bundled contracts in FY 2001 to the total DoD contract dollars. The analysis indicates that only two-tenths of one percent (0.2%) of DoD contract dollars in FY 2001 was bundled. We are working with the President's Office of Management and Budget to prepare a Federal Government strategy for unbundling contracts wherever practicable.

Contract bundling is a subset of contract consolidation. In some instances DoD restructures mission requirements as a means to gain efficiencies or to realign its

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<sup>2</sup> Bundling is defined in the Small Business Reauthorization Act of 1997 (P.L. 105-135) as the combination of previously separate requirements into a single contract that is no longer suitable for award to small businesses

organization to meet mission demands. When an organization combines requirements previously performed under separate contracts into a single larger contract, it is a consolidated contract. If the previous smaller contracts were suitable for award to small business and the consolidated contract is unsuitable for award to small business, it is a bundled contract.

Reports by the General Accounting Office (GAO)<sup>3</sup> suggest that contract consolidation has not had a major impact on the health of the small business industrial base. One GAO report on government-wide procurement trends in the 1990s found that despite an overall decline in contract purchases between FY 1993 and FY 1999, the share to small businesses has increased. Small businesses received a higher share of expenditures on new contracts worth over \$25,000 in FY 1999 than in FY 1993. In another recent GAO report<sup>4</sup> on construction contracts and the potential impact of consolidations on small business, the GAO found that: "Overall data on military construction contract awards to small businesses revealed that small businesses are generally continuing to win work and that their ability to compete is not being impaired. Specifically, the share of awards going to small businesses increased from 25 percent in 1997 to 32 percent in 2000."

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<sup>3</sup> Report GAO-01-119 on "SMALL BUSINESS Trends in Federal Procurement in the 1990s" of January 2001.

<sup>4</sup> Report GAO-01-746 on "CONTRACT MANAGEMENT Small Businesses Continue to Win Construction Contracts" of June 2001.

To further investigate concerns about consolidated contracts, DoD initiated an internal review. Logistics Management Institute (LMI)<sup>5</sup> examined data available from the Defense Contract Action Data System for FY 1994 through FY 1999 and found no evidence that the average value of the individual awards to businesses has increased over the period, such as would be expected with contract consolidations. Although LMI was able to study only a small sample of contracts, the LMI conclusions support the GAO conclusions. LMI reported that: "The Dollar value of contract actions awarded to small businesses has remained at about 21 to 23 percent, with no discernable negative trend. For awards over \$25,000, where most of the dollar value occurs, the dollar value awarded to small business has remained relatively constant and the number of awards to small businesses has also stayed nearly constant."

According to GAO<sup>6</sup>, the Flexible Acquisition and Sustainment Tool (FAST) is successfully consolidating requirements but avoiding bundling. FAST provides a multiple-award task-ordering capability for procurement of weapon system support services and parts. The program is designed to meet three overarching goals: 1) flexibility and speed; 2) reduce cost; and 3) increase dollars awarded to small businesses.

Six contractors were selected for the FAST multiple-year, Indefinite Delivery/Indefinite Quantity (ID/IQ) contract. Three of these contractors were large businesses and three were small businesses. As of 7 May 2002<sup>7</sup>, the three small

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<sup>5</sup> Logistics Management Institute Report AQ001R1 on "Case Studies in DoD Contract Consolidations A Study for the Office of Small and Disadvantaged Business Utilization" of December 2000.

<sup>6</sup> See GAO Decision B-286817, 22 Feb 2001

<sup>7</sup> Senior Oversight Panel Briefing 7 May 2002



businesses had been awarded \$41.5 million (66%) as opposed to the \$21.1 million (34%) which went to the three large businesses. Over the 7 year life of the contracts, these FAST prime contract awards combine for a potential value of \$7.441 billion.

I want to emphasize that the Department is committed to small business and, as required by law, before we bundle requirements they must be properly justified. I issued a memorandum<sup>8</sup> last January re-emphasizing the requirements of the Federal Acquisition Regulation regarding bundling. The memo also reiterates my expectation that acquisition strategies must facilitate small business participation to the maximum extent practicable. The memorandum transmitted a Benefit Analysis Guide that includes practical advice on avoiding bundling and on mitigating adverse impacts on small businesses from bundled acquisitions. This guide outlines the procedures for performing the required benefit analysis. These documents were developed to ensure that appropriate emphasis is placed on avoiding unjustifiable bundling in accordance with the statute and regulation.

The previously stated statistics tell of our success but fail to fully illuminate the immeasurable contributions small businesses have made in the healing of our nation since September 11<sup>th</sup>. Forty-three percent (43%) of the prime contractors involved in the Pentagon renovation are small businesses. These businesses, ranging in size and varying in trade, have recovered approximately 300,000 square feet of office space, enabling 1,500 of the 4,600 displaced DoD staff to return to a fully operational workplace. To accomplish such a feat, alternating shifts of small business employees have worked

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<sup>8</sup> Memorandum available at [www.sadbu.com](http://www.sadbu.com).

around the clock, everyday of the week. Over the last 8 months, employees of small business firms have displayed enormous dedication and patriotism.

While small business owners here were helping restore the Pentagon, other small business owners were helping the war effort in other ways throughout the country.

One month after the Pentagon was attacked, the Secretary of Defense asked for help in combating terrorism. Through a Broad Agency Announcement, my office asked companies and educational institutions to submit concepts which can be developed and fielded within 18 months. The response was overwhelming. More than 12,500 ideas were sent in addressing ways to defeat difficult targets, conduct protracted operations in remote areas and develop countermeasures to weapons of mass destruction. Approximately one quarter of the best ideas that are being evaluated for further study were from small businesses or HBCU/MIs. Women, minority and veteran owned small businesses are well represented among the proposals now being evaluated.

Other small businesses already have unique concepts that address the war on terror. Two such companies are discussed below.

Foam Matrix is an ISO 9000 certified small business, based in Inglewood, California. The company was founded as a surfboard supplier. In the pursuit of the perfect surfboard, Foam Matrix founder Kent Sherwood, created a composite foam which is incredibly strong, ultra-light and easily repairable. Initially used for his surfboards and

film set construction, his composite foam is now the main component in replacement the wings for the X-45 unmanned combat air vehicle. Due to the success of the X-45, Boeing, the manufacturer of the unmanned aircraft, has also tasked Foam Matrix with developing new replacement parts for the C-17 military transport plane.

Pacific Consultants, Exponent, Pemstar, Computer Sciences and Omega are a group of small businesses that have successfully come together to resurrect the Land Warrior program that a big business prime contractor had difficulty completing. The Land Warrior system original design was known as the "turtle shell" due to its overweight bulk. The original back-mounted computer system often prevented soldiers from moving quickly and freely. The system was so large that soldiers often got stuck on their backs, like a turtle, when they tried to roll. Thinking it was impossible to build a digital soldier, the program was restructured.

This team of small business engineers not only brought this program back to life in a matter of months and delivered the new product at half the price, they also produced it at a fraction of its original weight, now weighing a mere 12.75 pounds. The operating system went from complex military code to simple Microsoft 2000 software, enabling any soldier that grew up with a computer to use this new system with ease. Because of the ingenuity of the Land Warrior small business consortium, they were awarded the Land Warrior contract to make prototypes. These prototypes demonstrate capabilities that will make our warfighters more effective in the battle against terror.

DoD continually strives to enhance its overall small business performance, particularly to achieve the goals recently established for woman-owned small businesses, HUBZones, and service disabled veteran owned small business. There are positive trends. In Fiscal Year (FY) 2001, \$51.8 billion of DoD procurement spending went to small business firms, with \$28.3 billion of this going to small business prime contractors<sup>9</sup>. This marks the first time in its history that the DoD Small Business Procurement Program has surpassed the \$50.0 billion threshold.

I reaffirm the DoD's commitment to small business as a valuable and integral part of the defense industrial base. Thank you for the opportunity to appear here today.

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<sup>9</sup> Referenced from the WHS Services Directorate for Information Operations & Reports.

Testimony of John DiGiacomo, Director  
Procurement Technical Assistance Center  
Rock Valley College, Rockford, Illinois

Before the  
House Committee on Small Business

May 15, 2002

Mr. Chairman, Members of the Committee: My name is John DiGiacomo. I am Director of the Procurement Technical Assistance Center (PTAC) located at Rock Valley College in Rockford, Illinois. I, and my colleagues in 88 other Procurement programs around the country, work closely with businesses – especially small, minority, woman-owned and veteran owned businesses – assisting them in their efforts to do business with the Department of Defense and other government agencies. We see, on a daily basis, the facets of DoD buying practices that work well, and those that present serious obstacles to small business participation. I am grateful for the opportunity to share our and our clients' experiences with you today.

The Procurement Technical Assistance Program, that funds all of our Centers through the Defense Logistics Agency and local matching funds, was created by Congress in 1984 to address the very issue we're discussing today – how to expand small business participation in DoD procurement. At that time, the sheer complexity of the procurement process was a primary barrier to small businesses, and the PTACs mission has been to guide them, step by step if necessary, through all stages of the process, including marketing, identifying appropriate solicitations, preparing bids, creating quality control measures and administering contracts. In addition, we help connect large prime contractors with capable small business subcontractors, and are occasionally approached by buying offices to help identify qualified local vendors. This intensive assistance has proven to be effective. In 1999, the most recent year for which confirmed national statistics are available, 78 centers served 28,361 new clients (totaling approximately 60,000 clients overall), resulting in the award of over \$6.8 billion in contracts and the creation or retention of over 156,000 jobs. This award figure of \$6.8 billion is based on actual award letters that are voluntarily forwarded by clients to our Centers. The actual impact is certainly much greater, for many awards are not reported back to us for a variety of reasons.

The PTAP provides a vital service to our government by continually drawing new companies – new resources – into the federal marketplace. As an example of this, I'd like to cite PROCon 2001, a Conference we held in collaboration with Congressman Manzullo in Rockford on October 31, 2001. Over 240 businesses attended that conference, and of those, over 100 companies signed up with us to do business with the government. A majority of these companies are now bidding on federal contracts, making their unique capabilities available to government agencies, raising the level of competition for these contracts, and thereby ensuring the availability of better goods and services at lower costs. Conferences such as this are held by Centers all over the country.

I have included, as Appendix A to this testimony, detailed information about the Procurement Technical Assistance Program.

Regarding our experiences, and more importantly our clients' experiences, with DoD procurement practices, the results have been mixed. Many PTACs have very positive

relationships with local military bases and installations, and report that the contracting personnel are helpful and responsive, both to the Center and to small vendors. There are many training seminars and other events sponsored jointly by local DoD operations and PTACs.

But systemic problems have developed in the agency's approach to procurement that do create significant barriers to small business participation, barriers that technical assistance alone cannot mitigate.

Contract bundling is clearly one of them. A number of PTAC directors report clients shut out of contracts that they previously held - and performed successfully - because those contracts are now included in much larger solicitations. We see only a small fraction of these situations, since most of our clients are less experienced with contracting. More significant to us has been the sharp decrease in contract opportunities appropriate for small business as the Department relies increasingly on consolidated mega-contracts.

Particularly frustrating are the instances in which rules are manipulated to open up "small business set-asides" to much larger companies - allowing the agency to bundle, and yet still count the contracts toward their small business goals. In a recent example shared by a PTAC counselor in Minnesota, an Air Force base issued a solicitation for:

"Scientific, engineering and manpower assistance in the area of airbase science support and technology development. The contemplated services include all areas and aspects of technology development, planning, program management, technical editing, construction, instrumentation, testing, repairing, evaluation, managing, briefing, and reporting of Physical and Biological science and engineering R&D for Airbase Science Support and Technology Development activities. The contractor shall maintain an in-house capability to perform technical science and engineering support to include computer programming and network support; development of organic biodegradable materials recovery techniques; survivability enhancement for airbase facilities; range Instrumentation; utilities and infrastructure; rapid runway repair equipment, materials and methodologies; structural hardening; criteria for the development of contingency launch and recovery operating surfaces and fixed or deployable tactical shelters; vulnerability assessments and asset survivability techniques; aircraft crash rescue and structural fire suppression and mitigation; active and passive defense techniques and measures; chemical and biological warfare defense and counter proliferation technologies; physical protection technologies; robotics for active range clearance and anti-terrorism, crash fire rescue systems; air inflatable shelters, logistic fuel reformers, rapid airfield assessment systems, fire fighter training simulators, fire fighter control & accountability systems, lightweight (runway?) matting, chemical systems for airborne laser technologies, atmospheric threat protection, biocatalysis for new advanced materials, and chemical and biological reactors."

This solicitation is listed as a small business set-aside, with a size standard of 1500 employees, even though the appropriate size standard for this particular code is 500. The Air Force contracting specialist maintains that the larger size is allowed under an exception for "aircraft". But the exception being cited is intended for contracts

"requiring the delivery of a manufactured product"(i.e.: an aircraft), which this solicitation clearly does not. The PTAC counselor has a client who would like to bid on parts of this contract, but – to date – the specialist has refused to amend the solicitation. Such manipulations are, unfortunately, quite common.

Exacerbating the effects of this trend toward mega-contracts is the fact that rarely is information available on the large prime companies planning to bid on the consolidated contracts. As a result, subcontracting opportunities are effectively eliminated for thousands of small businesses that could capably and competitively perform the work, at great value to DoD.

Another issue is the increasing use of credit cards for micro-purchases, a traditional, significant market for small business. This would not, in and of itself, create a barrier. But because many agencies do not make available their cardholder lists, it is impossible for small businesses to market themselves to those who might need their products and services.

Also, all too often necessary information regarding contract opportunities is difficult, if not impossible, to obtain – sometimes even for PTAC personnel, most of whom have years of government contracting experience. There are a diversity of electronic systems used by DoD agencies, countless websites that contain different solicitations – or different pieces of information needed to prepare bids (i.e.: specifications, standards, drawings, regulations) – and no rational way to navigate the system. Far from having a "single face" to the vendor, procurement with the Pentagon can be an endless, constantly changing maze. This is further complicated by the fact that many agency procurement officers do not seem to understand the system themselves, or lack necessary procurement expertise or training to work effectively with vendors. Small businesses do not have the resources to compensate for these shortcomings and in the face of these challenges; many small businesses simply "give up".

Furthermore, electronic commerce poses a formidable challenge to many small businesses, and with the termination of the Electronic Commerce Resource Centers last year, they have nowhere to turn for the intensive technological help they often need. The PTACs provide assistance in this regard to the extent that they are able, but PTACs do not have the resources to employ the technology specialists or acquire the equipment necessary to provide meaningful EC training.

The drastic downsizing of the Government Acquisition workforce over the last 10 years has been a major factor in the development of many of these problems, and is cited again and again by PTAC professionals as a critical issue that must be addressed. The fewer resources that buying offices have, the more disorganized and difficult they are to work with. And the more they will rely on – or be taken advantage of by – the contracting specialists that large prime contractors can afford to employ.

As I know this Committee appreciates, small businesses are the foundation of our economy. In the state of Illinois, nearly 98% of businesses employ fewer than 100 workers. They provide jobs for nearly half of all workers in my state, and they create the majority of new jobs there each year. Small businesses are often very flexible, creative, and innovative. There are many across the country developing the new technologies that will carry us through this next century. And they can deliver high quality goods and services at very competitive cost. To shut them out of the

Defense market is to deny our Country access to some of its most valuable resources, and I believe compromises our national security by reducing the industrial base that can supply us in times of need.

Clearly, there are solutions. And I speak for all of my colleagues when I say that the Procurement Technical Assistance Centers would be honored to continue to be a part of these solutions.

Rebuilding the Acquisition workforce and reversing the trend toward contract bundling are absolutely essential steps - steps that go hand in hand. Meaningful reform will require a formidable commitment from the Administration and the agency at all levels. But if these steps are taken, the PTACs can support local installations and offices as they "unbundle" contracts by working with them to advertise solicitations and identify potential bidders - helping to ensure an adequate stream of qualified vendors to meet their many and diverse needs.

We recognize that consolidated contracts will continue to be important and widely used. But small business participation as subcontractors can be expanded significantly by requiring that the large primes advertise for subcontractors prior to bid submission. Once again, PTACs can play an important role in connecting primes with qualified, local small businesses, and supporting those small businesses on a number of fronts to ensure that they can perform those subcontracts capably. In some states, state agencies are required to register all of their solicitations with their PTAC. The PTAC network nationwide could provide a similar, centralized outreach mechanism for large prime contractors in search of subs.

Finally, we would encourage Congress and DoD to create compelling incentives for agencies - and primes - to meet their small and minority business goals. These incentives - whether positive or punitive - must be significant enough to counterbalance the convenience inherent in bundling. Once these incentives are in place, the PTACs can be a resource in efforts to meet small and minority business goals by serving as a bridge between buying offices and the targeted businesses.

In closing, I want to say how pleased I am by this Committee's attention to these issues. The consequences of policy in these areas are serious, both for the health of our economy that is fueled by small business, and the strength of not only our Armed Forces, but our government as a whole, that depends upon its ability to draw upon the best talent, the best technology, the best products and the best services our Country has to offer. I hope that my comments have been helpful to you this afternoon, and I'll be happy to answer any questions or provide any further information that you might like.



## Testimony of John DiGiacomo

Before the  
House Committee on Small Business  
May 15, 2002

## Appendix A

The Defense Logistics Agency's Procurement Technical Assistance Cooperative Agreement Program's primary mission is to support our national security by ensuring a broad base of capable suppliers for the defense industry and other agencies, thereby increasing competition, which supports better products and services at lower costs. Under this program, 89 individual Procurement Technical Assistance (PTA) programs – 38 statewide, 48 regional, and 3 tribal – provide service from over 250 locations to 44 states and the Commonwealth of Puerto Rico.

Despite the growth of specialized small business assistance programs – many of which call for procurement assistance – the Procurement Technical Assistance Program remains the only government-sponsored program that provides intensive, individually tailored guidance through the federal procurement system. Although there is some variance from program to program, most offer the following services free of charge to their clients:

- Counseling Assistance – Individualized counseling regarding solicitation analysis, bid/proposal preparation, federal specifications/standards, cost accounting/quality systems, electronic commerce/electronic data interchange, pre-award surveys, post award contract administration, central contractor registration, internet procurement opportunities and other relevant topics.
- Bid-match – A computerized service matching client companies' capabilities to listings in the Fed BizOpps (formerly provided in the Commerce Business Daily).
- Workshops, Seminars and classes on such topics as certifications, basic federal procurement, special contracting programs (i.e.: SBIR and STTR) and other issues of interest to clients. This training is often offered by the PTACs in conjunction with other organizations.
- Resource Library – Including Government Contract Histories, Military Specifications and DoD Adopted Industry Standards, the Federal Acquisition Regulations, state and local acquisition regulations, purchasing procedure manuals, and articles and publications on government contract topics.
- Other Resources – Access to an Aperture Card Reader, information on client company capabilities, forms, information on other agencies and organizations which offer assistance.
- Expert Staff: PTAP counselors strive to be a bridge between companies and the relevant buying offices, mentoring and monitoring firms from initial bid offering through successful contract completion. The capability of the counseling staff is critical to the success of the program. In 80% of the programs, over half of the counselors have prior contracting experience (30% can make that claim for 100% of their staff). All counselors receive extensive, on-going training in procurement related issues and many are certified through the Association of Government Marketing Assistance Specialists (AGMAS). This very focused capability and training is perhaps the most important asset PTA programs can offer their clients.

Each individual PTA program is a complex coalition of state and local governments and non-profit organizations that have come together to leverage a wide range of resources and relationships fundamental to the operation of the programs. State governments play a significant role, providing funds for nearly 75% of all programs, either through direct grants, through the university or community college systems (approx. 43% of programs), or both. Local organizations – economic development agencies, regional planning commissions, local governments, non-profits, utilities and other businesses – are important partners for 50% of the programs, with nearly 20% receiving their entire match from local sources.

Approximately 20% of programs are a fully integrated component of a Small Business Development Center, and another 20% are located in close proximity to their local SBDC or participate in joint projects with them. Virtually all PTA programs work extensively with a range of economic development organizations in their area.

#### Performance

The expertise and intensive assistance offered by the PTA programs results in tangible success for their clients and capable contractors for the government. In 1999, (the most recent year for which statistics are available) 78 centers served 28,361 new clients (totaling approximately 60,000 clients overall), resulting in the award of over \$6.8 billion in contracts and the creation of over 156,000 jobs.

The following table represents the value of contracts received and voluntarily reported by clients of PTA Centers, nationwide.

	1997	1998	1999
Prime DoD SDB	\$633,201,847	\$740,262,136	\$1,275,296,431
Prime DoD WOB	\$116,899,408	\$163,701,346	\$411,835,958
Prime DoD Other	\$1,383,892,031	\$1,092,242,507	\$191,083,450
Prime DoD Total Small	\$2,085,973,078	\$2,021,437,121	\$2,518,549,293
Prime DoD Large	\$567,642,263	\$1,400,892,628	\$1,807,804,719
Prime Total DoD	\$2,653,916,102	\$3,406,818,696	\$4,313,354,012
Prime Other Federal	\$1,129,193,705	\$1,649,044,391	\$1,002,490,333
Prime State or Local	\$599,727,663	\$1,055,081,547	\$889,552,349
Total Prime Contracts	\$4,382,837,470	\$6,110,944,634	\$6,205,396,694
Sub DoD SDB	\$226,351,082	\$56,149,089	\$52,262,489
Sub DoD WOB	\$58,877,136	\$59,785,182	\$29,765,865

Sub DoD Other	\$225,209,661	\$220,422,819	\$73,464,760
Sub DoD Total Small	\$490,340,074	\$336,395,518	\$261,291,223
Sub DoD Large	\$122,798,948	\$124,888,278	\$106,322,876
Sub Total DoD	\$619,522,271	\$461,206,479	\$367,944,099
Sub Other Federal	\$140,900,991	\$204,992,556	\$150,964,247
Sub State or Local	\$131,615,013	\$114,031,131	\$127,992,006
Total Subcontracts	\$892,038,275	\$780,230,166	\$646,900,352
Total - All Contracts	\$5,274,875,745	\$6,891,174,800	\$6,852,297,046

**Key to this Table:**

DoD = Department of Defense

SDB = Small Disadvantaged Business

WOB = Woman-owned Business

Other = Small Businesses other than SDB and WOB

Large = Large Businesses

Other Federal = Federal Agencies other than DoD

State or Local = State or Local Government Agencies

Prime = Prime Contracts

Sub = Subcontracts

**Further Serving the Government**

In addition to its primary mission noted above, the PTACs are an important resource for DoD and other government agencies. As the government revolutionized its contracting practices and processes, the PTA centers – through their membership organization - were actively involved in the Federal (primarily DOD) efforts to answer mandates to convert to the “paperless” transaction. Also, through their work with small, minority, disadvantaged and women-owned businesses, PTACs can connect them with local buying offices and thereby help agencies meet their Congressionally mandated procurement goals. Finally, PTACs often serve as a direct resource for local and regional DoD operations, connecting them with qualified suppliers for specialized goods or services, or working with suppliers to ensure that they can capably perform their contracts. This role becomes particularly important in extraordinary times (such as war-time) when agencies have suddenly – and urgently – expanded requirements.

**Potential for Improvement**

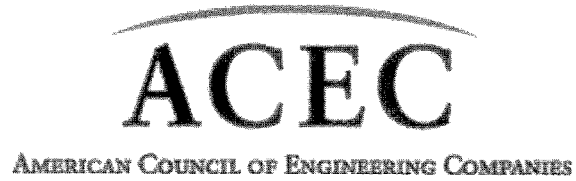
Procurement Technical Assistance Centers are an incredible value to the federal government. They provide an impressive return – in terms of service to the DoD, other agencies and businesses, and in terms of contracts awarded – for a very

modest price. The FY 2002 appropriation of \$18.573 million will fund approximately 91 centers in the coming year. But most programs operate on a "shoe-string" budget, and factors such as award limitations and instability of funding from year to year – particularly the local "matching funds" required – constrains many programs from providing the full level of services to all the businesses that need their help.

Fortunately, Congress is beginning to address some of these issues. Congressman Manzullo has played a major role in this regard, for which we are very grateful. We are hopeful that Congress will continue, in the coming years, to examine how the PTAP can be structured and supported to best serve the nation in the most robust manner possible.

#### AGMAS

The Association of Government Marketing Assistance Specialists was formed in 1985 to represent and serve a growing nationwide network of procurement assistance professionals, and its membership is largely comprised of PTAC organizations and their staff. The principle objective of the Association is to establish a national forum to conduct training and provide for the exchange of information and ideas among procurement professionals for the purpose of communication, program development and professional enhancement. A volunteer organization, it conducts regional and national training conferences, and offers a three tiered professional certification program for procurement specialists.



Testimony of Cathy S. Ritter, P.E., FACEC

Before the U.S. House of Representatives Committee on  
Small Business

Hearing on Department of Defense Procurement Policies  
May 15, 2002

Good afternoon Chairman Manzullo, Ranking Member Velázquez, and members of the committee. My name is Cathy Ritter, and I am President of the Constellation Design Group, a small woman owned firm in Timonium, Maryland.

Today I come before the Committee representing the American Council of Engineering Companies (ACEC), the business association of America's engineering industry, representing more than 5,800 private engineering firms. ACEC members deliver vital infrastructure services to the American people including the design and construction of roads, airports, power plants, and waste water treatment facilities, the safe disposal of unexploded ordnance (UXO), the cleanup of superfund sites and most recently, cleanup of anthrax from the Hart Senate Office Building.

More than 60 percent of ACEC members, or 4,000 firms, are small businesses with fewer than 30 employees each. The Department of Defense (DoD) procures over \$2.1 billion in engineering services annually, providing a significant market to small firms who provide a range of services as both prime and subcontractors. Small engineering firms design the infrastructure for America's military by delivering a wide range of professional services ranging from base maintenance and operations to highly technical areas such as hazardous waste clean-up and unexploded ordnance removal.

As a small business owner, I am extremely pleased with President Bush's Agenda for Small Business, which addresses many of the obstacles that hinder small businesses from contracting with federal agencies, specifically the Department of Defense. ACEC applauds the President's plan to ensure that businesses contracting with the federal government are able to do so in a fair and transparent environment. Specifically, ACEC applauds the President's comments on two matters that are of concern to small, private engineering firms -- contract bundling and the long-standing practice of government agencies performing work that is readily available in the private sector. These two issues will be the focus of my testimony today.

#### Contract Bundling

Contract bundling, the Federal government's practice of consolidating several small contracts into one large contract, is a major concern to small engineering firms attempting to do business with federal agencies. DoD's growing practice of bundling contracts makes it almost impossible for small firms to compete, as small firms often lack the range of disciplines and geographical reach necessary to successfully compete for these contracts. As a result, DoD has experienced a reduction in the number of competitors, which hurts its ability to select the most qualified design firm. In many cases, the firm best qualified to handle a project is a firm located nearest the project. A local firm's knowledge of the soil, climate, local supply and service entities, etc. results in the purchasing agency receiving quality service at the best value. ACEC recognizes the federal government's desire to create a more streamlined approach to contracting and believes that under certain circumstances, contract bundling makes sense. However,

DoD should not abandon the quality and innovation that small business brings for the purpose of administrative convenience.

For similar reasons, ACEC is concerned about the increased use of large indefinite quantity contracts. Several years ago a number of federal agencies began to use Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts for a base period of one year, with an option for one additional year. Specific projects were not identified, but were usually small and did not warrant advertising and selection of an a/e on a specific project basis. However, DoD is increasingly relying on ID/IQs as a primary contract vehicle and is pricing these contracts in such a way that small firms can't compete. Small business is effectively shut out from much of this work when the contract calls for a multiple year, multimillion-dollar award with no specific project/facility type in mind.

One such example of an Indefinite Quantity contract comes from a NAVFAC solicitation from April of 2001. The solicitation stated *"the majority of work will be located within the Commonwealth of Virginia, the state of West Virginia, the Commonwealth of Puerto Rico, and Western Europe, but may include the state of North Carolina, the states of Delaware, Pennsylvania, New Jersey, New York, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire, Maryland, and the District of Columbia; or at locations under the cognizance of Engineering Field Activity, Mediterranean (Europe and Bahrain) and any other areas within the aforementioned AOR"*. Being required to work across such a large geographical region virtually excludes all small engineering firms from competing for this contract. It is ACEC's hope that all DoD contracting agencies will properly evaluate proposed work associated with ID/IQ contracts, refrain from bundling projects that span a large geographical area, and solicit professional services based on the specific services required.

ACEC is hopeful that the DoD has begun to address the contract bundling issue. In a memorandum to Service Acquisition Executives sent in January of this year, Under Secretary of Defense, E.C. Aldridge, Jr., recognized the importance of small business in supporting DoD's mission and encouraged acquisition planners to structure contracts in a way that encourages small business participation and avoid contract bundling whenever feasible. ACEC applauds the Under Secretary's concerns for small business and looks forward to working with DoD to further increase contracting opportunities for small engineering firms.

#### Outsourcing

The debate that is currently taking place regarding the outsourcing of government commercial activities occurs at a critical time for the US government. As federal agencies face tight budgets and a looming human capital crisis, the need to efficiently allocate scarce resources has become increasingly important. In order for federal agencies to provide the best value to US taxpayers, they must concentrate on strengthening their core (inherently governmental) mission and outsource other activities to private industry. Outsourcing is a proven management tool that directly contributes to enhanced performance through improved quality, reduced standby costs, increased innovation, and access to technical expertise not available in-house. ACEC is pleased with the

Department of Defense's commitment to outsource work that is not inherently governmental but is deeply concerned about several attempts by lawmakers to stop outsourcing in its tracks. Over the past two years amendments were offered to the DoD Authorization bill that aimed to restrict DoD's ability to contract services with private industry. These amendments would have required that all DoD contracts go through a lengthy public-private competition process, commonly known as A-76, before work could be contracted out. The amendments risk increasing the time and expense for small businesses seeking to provide services to DoD and would put many small firms who concentrate on the defense marketplace out of business. Perhaps most importantly, these efforts tie the hands of the DoD, preventing it from procuring the best services available to fulfill its national security mission. We ask each member of this committee to oppose any type of amendment or bill that seeks to restrict the federal government from contracting with private industry.

#### Summary

In summary, ACEC looks forward to working with the House Small Business Committee, the Small Business Administration, and the Department of Defense to find a solution to contract bundling. Creating an even playing field for small firms and continued use of private sector expertise by DoD will provide a substantial benefit for small engineering firms who contract, or wish to contract, with the federal government.

Finally, I would like to thank the committee for inviting ACEC to testify today. We are extremely appreciative of your efforts, Mr. Chairman, as well as the efforts of Ranking Member Velázquez and the committee to help increase federal contracting opportunities for small business.





TESTIMONY

of Pamela Braden  
President  
Gryphon Technologies, L.C.

on behalf of the  
Professional Services Council

before the  
**Committee on Small Business**  
**U.S. House of Representatives**

May 15, 2002

Mr. Chairman, members of the committee. My name is Pam Braden, and I am the president of Gryphon Technologies, a woman-owned small business performing a range of engineering services for the federal government, principally the Navy. Prior to forming Gryphon, I worked for over 20 years in marketing and contracts for three different government contractors.

I am here today on behalf of the Professional Services Council (PSC), the principal national trade association representing professional and technical services firms of all types and sizes that do business with the federal government, including information technology, engineering, scientific and environmental services, and high-end consulting. I serve on PSC's board of directors. Many small and mid-size firms, including other woman-owned and minority-owned businesses, are members of PSC and do business with the federal government as both prime contractors and subcontractors. More than seventy percent of PSC member companies have contracts with the Department of Defense, although fully half of PSC member companies cite the civilian agencies as their principal clients. PSC serves as a leading policy advocate for our industry, commenting on the impact of legislation and regulations on both our industry as a whole and on PSC members specifically.

I appreciate the opportunity to share with you today some of my observations on the key procurement issues facing small businesses in the federal market. Today, the federal government purchases over \$80 billion in services – ranging from information technology, base operations and engineering services to high-end consulting and program management. Federal agency spending on services is rapidly approaching equality in federal spending on goods, but the federal procurement system has not kept pace with the changing nature of the federal government's needs.

Some firms, such as mine, prefer to be prime contractors; others prefer to be subcontractors; still others just prefer to get business! Small business is getting a share of the federal procurement market, although it is not clear that we are getting a fair share. However, I do not believe the creation of an excessive number of small/minority/veteran and woman owned set-asides would solve this problem.

The federal procurement process is complex and constantly changing. For instance, there has been significant growth in the use of large multiple award contracts, task orders, and blanket purchase agreements (BPAs), replacing the more traditional request for proposal (RFP) process. These contracts/BPAs have significantly higher ceiling values than the previously issued RFPs; in some instances the contract values are measured in billions, rather than millions, of dollars.

BPAs typically follow the GSA pre-ordained subcontractor requirements for small or minority-owned businesses, however there is minimal enforcement even when their contracts are included in the BPA. In addition, when evaluating proposals submitted for a BPA, procurement officers are not required to give any preferential treatment to small

or minority-owned businesses. Therefore, we are forced to compete head-to-head against large contractors for these contracts.

Prime contractors are becoming subcontractors, and new team relationships are replacing the historic prime-sub relationship. Services companies and integrators are offering increasingly complex technological solutions in response to agency-created performance statements of work. Competition is taking place in different places and at different times. Commercial companies are attracted to, but later repelled from, the federal market.

The federal procurement system is replete with intersecting and counter-balancing policies and provisions. Changes focusing on only one element of the procurement system often have unintended consequences in other areas. Therefore, it is appropriate that this committee, and other specialists in the federal procurement process, look carefully at how small businesses are approaching the federal marketplace, and how the federal government is responding to small business needs.

I would like to focus my remarks on three major issues: federal sourcing policy, contract bundling, and contract finances and payment. Each is important to the entire government services contractor industry, but they are of particular importance to my firm, to other PSC small business member companies, and to all small businesses.

#### FEDERAL SOURCING POLICIES

Over the past decade, the government has made significant strides in its sourcing policies. The advent of best value contracting and an increasing awareness of and desire for innovative solutions have helped the government access cutting-edge capabilities to better serve its many constituencies and customers. At the same time, these and other trends have also served to help hundreds of small businesses develop and thrive.

Today, however, there are unprecedented threats to the growth and development of small businesses in the federal market. The biggest of those threats is HR 721, the so-called "Truthfulness, Responsibility and Accountability in Contracting Act," or "TRAC," and related legislative variations. Although on the surface the bill may seem to be a reasonable attempt to ensure responsible government contracting, it is actually a radical and devastating piece of legislation. It would do nothing to improve the quality of government contracting, while forcing scores of companies, particularly small businesses, out of the federal marketplace.

The TRAC Act would require that every government service contract, task order, option, re-competition or renewal be subjected to a public-private competition under the prolonged, expensive, patently unfair and widely discredited OMB Circular A-76 process without regard to whether the work is being performed by an incumbent federal workforce. The A-76 process was designed to provide a method for those workers whose jobs are being considered for possible outsourcing to compete with the private

sector to retain their jobs. These competitions amount to less than two percent of all government services contracting, since the vast majority of services contracting is for new requirements or for already contracted work, for which there is no affected government workforce.

There are many reasons to be deeply concerned about such a major change in policy; many of them are tied to the unfairness and expense of the A-76 process. For a small business such as mine, whose bid and proposal resources are constrained, and the diversion of limited resources for high-risk opportunities would be enormous, this would be an untenable situation. Companies estimate that the cost of competing under A-76 is as much as 75 to 100 percent more than a traditional government procurement. These A-76 procurements also take exorbitant amounts of time -- an average of over two years for even the smallest, most discreet requirement, and four years or more for more complex requirements. Moreover, A-76 competitions, by design, award work to the low bidder, rather than to the bidder offering the best combination of quality and price, despite the fact that government procurement is principally governed by such best value considerations.

From a small business perspective, the calculus simply does not work. A business such as mine cannot afford exorbitant costs to compete. Much of the work for which we compete is announced, competed, and awarded in a relatively short time, often weeks, and certainly no more than a few months. I simply could not build my business if every procurement on which we bid was not only exorbitant in bidding expense, but also took two, three, or four years to complete. Finally, for small businesses in particular, best value—that is, the consideration of a variety of cost, technical, quality and other factors—is the key to our success. It is through such considerations that my firm's innovation and excellence is recognized. A-76 specifically is designed to focus on a cost-only comparison between the private sector and the public sector. While I have to disclose my price and be held accountable for it, the General Accounting Office has stated repeatedly that the government does not even know its own costs and is not held accountable for its bid. The A-76 process thus creates a false, wildly-tilted playing field that negatively affects both the government and all private sector bidders.

If A-76 or a similar process were to be applied to all government service contracts, many of us in the small business community could not survive as government service providers. Therefore, my most pressing message to this committee is, do all you can to ensure that the TRAC Act, or any part or variation of it, NEVER sees the light of day. To do otherwise would hasten the demise of the small business services sector in the government marketplace. Attached is a copy of a letter that small business owners have written to the Congress in opposition to the TRAC Act.

In response to Congressional direction, last year the Comptroller General convened a Commercial Activities Panel consisting of government and private sector experts, including the presidents of both of the federal employees' unions and the president of the

Professional Services Council, to review the government's sourcing policies and to make recommendations for policy and actions. That report was issued on April 30, 2002.

The Panel unanimously adopted as its first recommendation a set of ten principles to guide the federal government's sourcing activities. A copy of the principles is attached. In addition, a supermajority of the panel adopted three additional recommendations for implementing these sourcing principles. I encourage all members of the committee to review the Commercial Activities Panel's recommendations and to support efforts to quickly implement all of its recommendations.

#### CONTRACT BUNDLING

This committee has often debated and discussed contract bundling -- those situations in which requirements previously suitable for award to small business are consolidated, resulting in a set of requirements that is unsuitable for award to small business. There is no question that small businesses are deeply concerned about the impact of contract bundling on prime contract opportunities. This committee has initiated legislation that provides a solid foundation for addressing the issue in a balanced and fair manner. In the Small Business Reauthorization Act of 1997 (Public Law 105-135), Congress authorized contract bundling only if it is necessary and justified based on a benefit analysis. More importantly, the law puts real teeth into small business subcontracting rules.

This structure provides incentives to the marketplace to engage aggressively with small businesses, but also limits regulatory measures that could otherwise help to achieve similar goals. I have attached to my statement a summary of the existing government-wide Federal Acquisition Regulation provisions that apply to bundled contracts. However, more than four years after the law was passed, PSC is concerned that precious little guidance or training has been provided to the acquisition workforce to enable them to understand and follow the bundling rules.

We compliment the DoD Office of Small and Disadvantaged Business Utilization for its January 2002 "Benefit Analysis Guidebook" that acquisition teams can use in assessing the elements of the bundling law and regulations, analyzing the substantial benefits standard required by the law, and describing ways to mitigate the impact of bundling on small businesses. Overall, the Guidebook is reasonable and will be useful to procurement officials, even though it does not address BPA contracts. However, it does not appear that procurement officials are using or enforcing it.

Therein lies what we believe to be the most important issue---the need for more aggressive and focused guidance and training so that the sensible statutes this committee developed are actually put into practice.

Rather than consider new legislation, we recommend that this committee focus on ways in which agencies can be encouraged and driven to better understand and aggressively

implement existing rules. The problem is not in the law or in the rules; it is that too few members of the acquisition workforce understand or implement them.

In addition, Congress should evaluate the administration of multiple award contracts. Typically, multiple award contract bidders must submit subcontracting plans with their proposals. However, compliance with these plans is often difficult to verify. The result is that small business subcontractors often do not receive any benefit from the primes, even though the previously individually-awarded contracts are included in the larger procurement. Reasons for this should be explored.

#### H.R. 2867

We read with interest legislation (H.R. 2867) that was unanimously reported favorably by this committee on May 2, 2002. The bill would replace the current decision-making by the head of the procurement agency under an SBA appeal with a referral to the Director of the Office of Management and Budget who must render a decision within ten days after receiving the matter. In addition, the bill would extend the minimum bidding time for small business on bundled contracts from the current thirty days to sixty days.

PSC does not have a position on whether it is more appropriate to have OMB as the decision-maker of an appeal from SBA. Resources and capability should be taken into account in making that decision. However, in our experience, it is critical that the procuring activity making the purchase – which has the mission requirement and the ability to assess the appropriateness of the instant procurement – is fully involved in the appeal decision process. It is not clear under the legislation whether the procurement agency has such a role in the OMB review and decision.

Furthermore, we must recognize the agency's need to meet its procurement objectives. We would be concerned if the beneficial aspects of the minimum bidding time for bundled contracts are obviated if an agency has to frequently use the urgent and compelling exception in order to complete its work in a timely manner. While having a reasonable period of time to respond to any procurement is important, it is not the only factor that I have to take into account when deciding whether to submit an offer. Other equally important factors include the scope of the requirement and whether I can meet those requirements, my assessment of my chances of being awarded the contract, and the financial elements of bidding, including the cost of bidding and the cost of holding open my bid for an extended period of time.

#### THE PRESIDENT'S SMALL BUSINESS INITIATIVE

In a March 19, 2002, speech, the President talked about saving taxpayer dollars by ensuring full and open competition on government contracts. He offered three specific proposals to improve small business access to government contracts.

First, he instructed the Director of the Office of Management and Budget to review contracting policies at agencies with significant procurement activities to determine whether their contracting practices reflect a commitment to full and open competition. A report on this is due to the President by mid-September.

Second, he instructed the Director of the Office of Management and Budget to prepare a federal government strategy for unbundling. However, the President did not establish a specific timetable for that strategy to be developed.

Finally, the President proposed to consolidate eight civilian agency boards of contract appeals into a single board.

The Office of Management and Budget has already established two working groups, one focusing on full and open competition, and one focusing on bundling. In addition, on May 5, OMB published a notice in the Federal Register of a public meeting to be held on June 14, 2002, and a request for written comments on the first two elements of the President's program. That notice also highlighted specific topic areas of particular focus.

The Professional Services Council has requested an opportunity to make a presentation at the public meeting and we will be submitting written comments to OMB in response to their notice.

#### CONTRACT FINANCE AND PAYMENT ISSUES

Contractors should be paid on time for work performed according to a contract. All government service contractors face the issue of late payments, but for obvious reasons, it is an issue of special concern to smaller companies that do not have the resources and reserves to cover expenses when payments from government customers are late. Payment has improved because of changes to the Prompt Payment Act, but it still remains a problem. In addition, there have been special payment challenges for services contractors.

Over the past two years, thanks to the leadership of Senator Warner, late payments on interim billings for services contracts at the Department of Defense are now subject to interest under the prompt pay rules. The Department of Defense has yet to fully implement the December 2001 statutory provisions. Nevertheless, this authority is applicable only to the Department of Defense; small businesses providing services to the civilian agencies do not receive the benefits of this law. PSC urges Congress to extend government-wide the benefits of the interim payment provisions now applicable only to DoD.

#### CONCLUSION

Mr. Chairman, thank you again for the invitation to the Professional Services Council and to me to present our views on these important matters. I would be pleased to respond to any questions the committee may have.



April 11, 2002

Dear Representative:

We write to you to seek your help in fending off one of the greatest threats to our government contracting businesses – the so-called “TRAC” Act. Each of our companies is a small business, and our numbers include many minority and/or woman-owned businesses. We all provide professional and technical services to the federal government and represent the thousands of small businesses in our industry that received more than \$15 billion in competitively awarded federal government contracts last year. If the TRAC Act were passed in whole or in part, there is the real chance that few of our small businesses would be able to continue to compete for such work. And that could put many such businesses out of business.

SI 152 and HR721, the TRAC Act, would require that every service contract, option, renewal, task order or recompetition be subjected to a public-private competition under OMB Circular A-76, regardless of whether a federal workforce is currently performing the work. That means that the continuation of all of the work we now perform for the government, as well as all future work, would be subjected to the OMB Circular A-76 process. Virtually everyone agrees that this process is unfair to all participants, does not deliver high-performance outcomes to the government, and is extremely expensive and time-consuming. Those characteristics represent an enormous challenge and threat to any business, but add a particularly high barrier for our small businesses; in fact, many businesses are “voting with their feet” and refusing to participate in A-76 competitions. As small businesses, for whom the cost and fairness of competition is the most critical issue of all, we would be unable to compete for government work if this law, or any portion of it, is passed.

We are not opposed to competition. Indeed, we compete day in and day out for virtually all of our business. Our employees are dedicated to our government customers and work hard to deliver the highest quality of service at a fair price. The imposition of the A-76 process in our already competitive marketplace would be devastating and would not return any real value for the government.

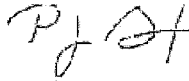
There are many good reasons to oppose the TRAC Act and any amendments that might seek to incorporate its significant elements. While the title of the bill may sound good, its substance would grind government to a halt, and in the process, would force many of us out of the federal marketplace. Therefore, taxpayer groups, small and big business organizations, national security organizations, private sector labor unions and others have banded together to oppose this legislation.

We ask you, as an acknowledged champion for the small business community, to help ensure that no part of the TRAC Act moves in this Congress.

Fifty years ago, the House Committee on Government Operations observed, “A strange contradiction exists where the government gives lip service to small business and then re-enters into unfair competition with it.” That observation remains as cogent today as it was then. We need your help to ensure that small businesses, the backbone of our economy, are not victimized by a poorly conceived, radical and devastating legislative initiative like the TRAC Act.

Thank you very much for your support. For more information, please contact Renee Wentzel at (703) 875-8059.

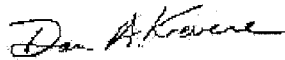
Sincerely,



Pamela J. Braden  
President  
Gryphon Technologies, L.C.



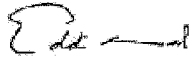
Thomas C. England  
President  
Mendez England & Associates



Dan A. Krevere  
Vice President  
Alltech International, Inc.



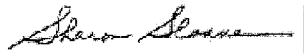
John C. Lee  
President & CEO  
Lee Technologies Group



Eddie Neal, Ph.D.  
President & CEO  
The Scientex Corporation



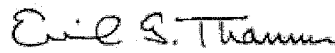
Patricia J. Parson  
President, CEO & Chairman  
AmerInd, Inc.



Sharon Sloane  
President & CEO  
WILL Interactive, Inc.



Julia T. Susman  
President & CEO  
Jefferson Consulting Group, LLC



Erik G. Thamm  
President & CEO  
Log.Sec Corporation

**Commercial Activities Panel Section I**
**Executive Summary**

the number of affected positions is so small that the costs of conducting a public-private competition clearly would outweigh any expected savings (i.e., a *de minimis* number, no more than 10 positions). There should be adequate safeguards to ensure that activities, entities, or functions are not improperly unbundled as a means to come under the ceiling to avoid competition. Any exception to the *de minimis* rule, based on clear, transparent, and consistently applied criteria, would need to be approved by the head of the agency. If that approval is obtained, any subsequent private-private competition should include as an evaluation criterion the favorable treatment of incumbent employees, in terms of retention, wages, and benefits.

The Panel also heard about several successful undertakings involving public-private partnerships, as well as about the importance of labor-management cooperation in accomplishing agency missions. A consistent theme at the hearings was the need for a strategic approach to sourcing decisions, rather than an approach that relies on the use of arbitrary quotas or that is unduly constrained by personnel ceilings. Critical to adopting a strategic approach is having an enterprise-wide perspective on service contract expenditures, yet the federal government lacks timely and reliable information about exactly how, where, and for what purposes, in the aggregate, taxpayer dollars are spent for both in-house and contracted services. The Panel was consistently reminded about, and fully agrees with, the importance of ensuring accountability throughout the sourcing process, providing adequate training and technical support to the workforce in developing proposals for improving performance,

and assisting those workers who may be adversely affected by sourcing decisions.

Sourcing policy is inextricably linked to human resource and human capital policies. This linkage has many levels, each of which is important. It is particularly important that sourcing strategies support, not inhibit, the government's efforts to recruit and retain a high-performing in-house workforce, as well as support its efforts to access and collaborate with high-performance, private-sector providers. Properly addressed, these policies should be complementary, not conflicting.

*The Panel fully agrees with the importance of ensuring accountability throughout the sourcing process, and of providing adequate training and technical support to the workforce.*

**Sourcing Principles**

Based on public input, review of previous studies and other relevant literature, and many hours of deliberation, the Panel developed and unanimously adopted a set of principles that it believes should guide sourcing policy for the federal government. While each principle is important, no single principle stands alone. As such, the Panel adopted the principles as a package. The Panel believes that federal sourcing policy should:

1. Support agency missions, goals, and objectives.

**Commentary:** This principle highlights the need for a link between the missions, goals, and objectives of

federal agencies and related sourcing policies.

2. Be consistent with human capital practices designed to attract, motivate, retain, and reward a high-performing federal workforce.

**Commentary:** This principle underscores the importance of considering human capital concerns in connection with the sourcing process. While it does not mean that agencies should refrain from outsourcing due to its impact on the affected employees, it does mean that the federal government's sourcing policies and practices should consider the potential impact on the government's ability to attract, motivate, retain, and reward a high-performing workforce both now and in the future. Regardless of the result of specific sourcing decisions, it is important for the workforce to know and believe that they will be viewed and treated as valuable assets. It is also important that the workforce receive adequate training to be effective in their current jobs and to be a valuable resource in the future.

3. Recognize that inherently governmental and certain other functions should be performed by federal workers.

**Commentary:** Recognizing the difficulty of precisely defining "inherently governmental" and "certain other functions," there is widespread consensus that federal employees should perform certain types of work. OMB Directive 92-1 provides a framework for defining work that is clearly "inherently governmental," and the Federal

Activities Inventory Reform (FAIR) Act has helped to identify commercial work currently being performed by the government. It is clear that government workers need to perform certain warfighting, judicial, enforcement, regulatory, and policymaking functions, and the government may need to retain an in-house capability even in functions that are largely outsourced. Certain other capabilities, such as adequate acquisition skills to manage costs, quality, and performance and to be smart buyers of products and services, or other competencies such as those directly linked to national security, also must be retained in-house to help ensure effective mission execution.

4. Create incentives and processes to foster high-performing, efficient, and effective organizations throughout the federal government.

**Commentary:** This principle recognizes that historically it has primarily been when a government entity goes through a public-private competition that the government creates a "most efficient organization" (MEO). Since such efforts can lead to significant savings and improved performance, they should not be limited to public-private competitions. Instead, the federal government needs to provide incentives for its employees, its managers, and its contractors to constantly seek to improve the economy, efficiency, and effectiveness of the delivery of government services through a variety of means, including competition, public-private partnerships, and enhanced worker-management cooperation.

5. Be based on a clear, transparent, and consistently applied process.

**Commentary:** The use of a clear, transparent, and consistently applied process is key to ensuring the integrity of the process as well as to creating trust in the process on the part of those it most affects: federal managers, users of the services, federal employees, the private sector, and the taxpayers.

6. Avoid arbitrary full-time equivalent (FTE) or other arbitrary numerical goals.

**Commentary:** This principle reflects an overall concern about arbitrary numbers driving sourcing policy or specific sourcing decisions. The success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or contractor workforce. Any FTE or other numerical goals should be based on considered research and analysis. The use of arbitrary percentage or numerical targets can be counterproductive.

*The success of government programs should be measured by the results achieved in terms of providing value to the taxpayer, not the size of the in-house or contractor workforce.*

7. Establish a process that, for activities that may be performed by either the public or the private sector, would permit public and private sources to participate in competitions for work currently performed in-house, work currently

contracted to the private sector, and new work, consistent with these guiding principles.

**Commentary:** Competitions, including public-private competitions, have been shown to produce significant cost savings for the government, regardless of whether a public or a private entity is selected. Competition also may encourage innovation and is key to improving the quality of service delivery. While the government should not be required to conduct a competition open to both sectors merely because a service could be performed by either public or private sources, federal sourcing policies should reflect the potential benefits of competition, including competition between and within sectors. Criteria would need to be developed, consistent with these principles, to determine when sources in either sector will participate in competitions.

8. Ensure that, when competitions are held, they are conducted as fairly, effectively, and efficiently as possible.

**Commentary:** This principle addresses key criteria for conducting competitions. Ineffective or inefficient competitions can undermine trust in the process. The result may be, for private firms (especially smaller businesses), an unwillingness to participate in expensive, drawn-out competitions; for federal workers, harm to morale from overly long competitions; for federal managers, reluctance to compete functions under their control; and for the users of services, lower performance levels and higher costs than necessary.

Fairness is critical to protecting the integrity of the process and to creating and maintaining the trust of those most affected. Fairness requires that competing parties, both public and private, or their representatives, receive comparable treatment throughout the competition regarding, for example, access to relevant information and legal standing to challenge the way a competition has been conducted at all appropriate forums, including the General Accounting Office (GAO) and the United States Court of Federal Claims.

*Public-private competitions should be structured to take into account the government's need for high-quality, reliable, and sustained performance, as well as cost efficiencies.*

9. Ensure that competitions involve a process that considers both quality and cost factors.

Commentary: In making source selection decisions in public-private competitions: (a) cost must always be considered; (b) selection should be based on cost if offers are equivalent in terms of non-cost factors (for example, if they offer the same level of performance and quality); but (c) the government should not buy whatever services are least expensive, regardless of quality. Instead, public-private competitions should be structured to take into account the government's need for high-quality, reliable, and sustained performance, as well as cost efficiencies.

10. Provide for accountability in connection with all sourcing decisions.

Commentary: Accountability serves to assure federal workers, the private sector, and the taxpayers that the sourcing process is efficient and effective. Accountability also protects the government's interest by ensuring that agencies receive what they are promised, in terms of both quality and cost, whether the work is performed by federal employees or by contractors. Accountability requires defined objectives, processes and controls for achieving those objectives, methods to track success or deviation from objectives, feedback to affected parties, and enforcement mechanisms to align desired objectives with actual performance. For example, accountability requires that all service providers, irrespective of whether the functions are performed by federal workers or by contractors, adhere to procedures designed to track and control costs, including, where applicable, the Cost Accounting Standards. Accountability also would require strict enforcement of the Service Contract Act, including timely updates to wage determinations.

The Panel used these principles to assess the government's existing sourcing system and concluded that there are some advantages to the current system. First, A-76 cost comparisons are conducted under an established set of rules, the purpose of which is to ensure that sourcing decisions are based on uniform, transparent, and consistently applied criteria. Second, the A-76 process has enabled federal managers to make cost comparisons between sectors that have

## Consolidation or Bundling Checklist

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### PURPOSE

This checklist serves as a quick reference source for the members of the acquisition strategy team and others to review before issuing solicitations that bundle requirements.

☐ IS THE CONSOLIDATION A BUNDLE?

See Federal Acquisition Regulation (FAR) 2.101.

☐ IF THE CONSOLIDATION IS A BUNDLE, DID THE TEAM AVOID UNNECESSARY AND UNJUSTIFIED BUNDLING?

See FAR 7.103

☐ DID THE TEAM DOCUMENT, IN THE PLAN OF ACTION, ANY POTENTIAL IMPACT ON SMALL BUSINESSES?

See FAR 7.105

☐ BEFORE ISSUING THE SOLICITATION, DID THE TEAM CONDUCT A BENEFIT ANALYSIS?

See FAR 7.1.

☐ IF THE CONSOLIDATION IS A BUNDLE, ARE THE BENEFITS "MEASURABLY SUBSTANTIAL"?

See FAR 7.107(a) and 7.107(b).

☐ ARE REDUCTIONS IN EITHER ADMINISTRATIVE OR PERSONNEL COSTS THE BASIS FOR THE BENEFIT ANALYSIS?

See FAR 7.107(d).

☐ IF THE BENEFIT ANALYSIS DID NOT MEET THE FAR CRITERIA, IS THE PROCUREMENT MISSION CRITICAL?

See FAR 7.107(f).

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- ☐ HAS THE SMALL BUSINESS ADMINISTRATION'S PROCUREMENT CENTER REPRESENTATIVE BEEN INVOLVED?

See FAR 10.001(c)(1) and FAR 19.202-1

- ☐ DID THE INCUMBENT SMALL BUSINESS(ES) RECEIVE NOTIFICATION?

See FAR 10.001(c)(2).

- ☐ IF A SOLICITATION THAT BUNDLES REQUIREMENTS CONTAINS SIGNIFICANT SUBCONTRACTING OPPORTUNITIES, HAVE THE SMALL BUSINESS SUBCONTRACTING PROVISIONS BEEN INCLUDED?

See FAR 15.304(c)(5) and FAR 15.304(c)(3)(iii).





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Statement of

Mike Tucker

Owner

George W. Allen Company

On Behalf of the

Independent Office Products & Furniture Dealers Association

House Small Business Committee

Wednesday, May 15, 2002

Mr. Chairman, Ranking member, and members of the Committee, I appreciate the opportunity to testify before your committee today to address the issue of procurement policy and its impacts on small business.

My name is Mike Tucker and I am the owner of George W. Allen Company (GWA), an office supply dealership located in Beltsville, Maryland. I am also here today on behalf of all independent dealers in my capacity as Chairman of the Independent Office Products & Furniture Dealers Association's Government Affairs Council.

This trade association represents 1500 independent Office Product and Furniture dealers and their trading partners. They are dedicated to the development of programs and opportunities that help strengthen the independent dealer's position in the marketplace.

George W. Allen Company is a family-owned and operated company founded in 1948 by George Allen (no relation to our former football coach). I joined the company in 1996 and am today the sole owner with a staff of 45 employees and sales in the range of \$17 million annually.

As an independent office supply dealer this hearing is important because it will shed light I hope on the problems plaguing small businesses in their attempts to do business with the government. My company has gone from doing 80 percent of our business with the federal government just three years ago to now only doing 65 percent today. There is a reason for that. The federal government is simply failing to meet its small business contracting goals. This loss of business is significant for a company like mine. I estimate this loss costs my company \$1 million annually in sales that I once had with long time government customers.

This morning another colleague of mine LaMar Williams with Williams Office Environments in Fayetteville, North Carolina appeared at a press conference where "Scorecard III" was unveiled by members of this committee. I wasn't surprised to hear LaMar tell reporters that he has lost 50% of his government business over the past five years. Or if you put it in dollars his company has gone from \$1.2 million in annual sales to the government to less than \$500,000 today. These losses are staggering and are having an impact on our businesses and our ability to compete.

During the six years since the Federal Acquisition Streamlining Act became law; my company has been unable to compete for contracts we once bid successfully for. Big office supply companies, such as Office Depot, Staples, Corporate Express and Boise Cascade have stepped in to take huge sole source contracts mostly because of the desk top delivery requirement, which requires a company to provide overnight delivery to at least 90 percent of the country. This requirement in my opinion is unnecessary and limits competition from companies like mine.

Agencies such as IRS, NASA Goddard, Harry Diamond Labs, and the U.S. Post Office had been George Allen customers for years. Now, the only time we get a call from these agencies or entities is for something discontinued or backordered by their sole source vendor. These blanket contracts are negotiated behind the scenes without any small business input or competition. The national chains have convinced many agencies that small office supply companies are not competitive. We were even told by an official in the USPS (at the time they were looking to award their sole source contract) that independent dealers were "irrelevant". This is simply not true. We belong to buying cooperatives that allow us to leverage our purchasing with several thousand other independent dealers. With 12 billion dollars in combined purchases we can compete on price.

The federal government tells a good story of ways they reach out to small businesses. Agencies host conferences and meetings where hopeful vendors are given lists of contracts and told how many millions of dollars are spent on their products each year. Unfortunately, most find out the hard way that the customers they are trying to land have already been told what large company they must buy from for the next several years. Prime contractors play the same game with their subcontracting plans! I've had the opportunity to see a proposal sent to the U.S. Postal Service indicating that the prime contractor was a stocking dealer for 83 small and minority companies. When the final catalog of (1500 items) was issued only 11 small businesses and 34 items made the cut. Many of the items listed like thermal fax paper and spring lock metal label holders are not exactly big sellers. Again the plan is designed to sound good but creates minuscule opportunity for small business. I use the USPS as an example, and although they are a quasi-governmental entity, they exemplify the current problems we are facing with all federal agencies, not just the USPS or DoD.

Mr. Chairman, as you know, the Department of the Army recently sent out a solicitation on a \$100 million Blanket Purchase Agreement for office supplies. Initially independent dealers were not even considered in the bidding process even though some of us fit the criteria. It was only after you and Ms. Velazquez got involved were independent dealers able to submit bids. Mr. Chairman it took your help to make this happen and at the end of the day I am told some 9-10 independent dealers were able to meet the very short deadline and submitted bids. My company was one of them and it is my hope that our bids will be reviewed and given the same consideration as our large corporate competitors. If they are the Department of Army will find that our pricing is competitive, our service is very good, and our time of delivery will meet their needs. I am hopeful that at least a couple independent dealers will be awarded some of this business. If we get the opportunity we can use this contract as a stepping stone to show other agencies that we can meet their needs. Let me state we appreciate the Army's willingness to do what they did and hope the other branches of the military will follow their lead.

I have recently become aware that the Department of the Air Force is planning the same kind of award that the Army just concluded. I would like to ask this committee for its help once again. Independent dealers want the opportunity to bid on this contract and unfortunately the only way that may happen is if this committee once again gets involved.

We have had the same type of experience with the Department of Agriculture, but with a much different outcome. The DoA sent out solicitations to bid on a multi-million dollar office supply contract that eventually went to a large corporate company. Through numerous inquiries within the DoA, I learned through IOPFDA that the only small business invited to bid on this contract was no longer in business. For many of us who had built up strong relationships with contracting officers within the DoA and who had done significant business with this agency in the past are no longer being called on to do so because of their sole source arrangement. Again, this loss will cost my company hundreds of thousands of dollars annually. My company cannot keep taking these kinds of losses and expect to be successful.

We just want the same considerations that are given to the big corporate players. I'm hoping this hearing will help change these attitudes and agencies will begin to utilize more small businesses. Given the chance we can compete. Small office supply companies can successfully compete with large businesses when the rules aren't stacked against them. Government Re-Invention and changes in federal procurement regulations have clearly given large corporations an unfair advantage in the government market for office products.

Mr. Chairman, to save on time I have just given you a sampling of the real problems that exist for our industry and small businesses in general when trying to do business with our government. I'm hoping to have the opportunity during any questioning to delve deeper and in more detail into the problems that exist for our industry and what I believe is a problem confronting all small businesses.

Let me conclude by quoting President Bush who said recently "[T]he role of government is not to create wealth, but to create an environment where entrepreneurs can flourish." Mr. Chairman, Ranking Member, with your help we can succeed. Help us as the President so eloquently stated "tear down the regulatory barriers to job creation for small businesses and give small business owners a voice in the complex and confusing federal regulatory process; Save taxpayers dollars by ensuring full and open competition to government contracts."

Mr. Chairman, legislation proposed by you and Ms. Velazquez gets us headed down the right path and I hope this Congress will pass this much needed reform before it is too late. On behalf of my industry I want to thank you both for all you have done for the small business community. We could not have asked for two better champions.

Thank you for the opportunity today and I would be happy to answer any follow up questions should you or any members of the committee have for me.

Prepared Testimony before the House Committee on Small Business  
 From Frederick D. Erwin, Independent Consultant  
 Wednesday, May 15, 2002  
 Hearings on "Pentagon's Procurement Policies and Programs with Respect to Small Business"

Mr. Chairman, Ranking Member Velázquez, Members of the Committee, I would like to thank you for giving me this opportunity to appear before you to testify to the importance of providing e-commerce opportunities for small business by the Federal Government and in particular the Department of Defense. In doing so, I will be discussing this important issue that you so recognize by virtue of calling this hearing -- from the perspective of a program that provided invaluable assistance to small business. The program I am referring to is the recently cancelled Electronic Commerce Resource Center (ECRC) program funded by Congress and operated under contract through the Defense Logistics Agency. As you know, the thrust behind the ECRC program provided education, training, and technical support to small businesses and enabled them to learn about and more effectively participate in, e-Government<sup>1</sup>.

The establishment of e-Government programs (sometimes referred to as: Electronic Business or Electronic Commerce) by the Executive Department has resulted in considerable savings and efficiencies. Among the most publicized has been the use of Electronic Commerce technologies in the procurement of goods and services. One of the stated objectives of e-Government programs had been to expand opportunities for small business to participate in the government procurements.

I would like to acknowledge that small businesses do have greater visibility and access to many of the Federal Government procurement opportunities since October 1, 2001, through a government-wide single point of entry system called FedBizOpps (<http://www.fedbizopps.gov>). This Internet Web site provides synopses and solicitations for procurement opportunities that exceed \$25,000 across the Federal government. However, as helpful as FedBizOpps may be it does not resolve all of the challenges facing the small business in today's electronic business environment. In fact it only provides access to some opportunities. Lacking are those solicitations under the \$25,000 limit and the opportunity to participate with the prime contractors in major acquisitions. The needs still exist for small business to understand how to participate in the total e-Government environment. The ECRC program offers such support and assistance.

I am convinced that the need for small business to become *electronically-enabled* is critical not only to the success of the small business but also to the many e-Government initiatives. Existing public resources should be leveraged to enable small businesses to seize their e-commerce opportunities, meet a new generation of e-commerce challenges, and participate in the DoD's and other Federal departments' and agencies' supply chain.

The ECRC program has only recently been discontinued and many of the relationships, personnel, infrastructure, electronic business/electronic commerce tools, training

programs, and outreach capabilities are still in place. This valuable resource represents many years of DoD investment and is available to perform needed training and outreach to small and disadvantaged DoD suppliers and potential suppliers. These resources are quickly eroding.

I recommend the establishment of a new program that uses the former ECRC program as a springboard to provide a new program, which will offer a more advanced level of help, not to re-establish what used to be done by the ECRCs.

Action is required now if the Federal Government is to leverage the infrastructure and knowledge gained through the ECRC program, and focus that knowledge towards serving the needs of small businesses through the existing Small Business Administration, Small Business Development Centers, Procurement Technical Assistance Centers, and Manufacturing Extension Partnership programs. The new focus should be on using contacts, skills and lessons learned to assist small business in becoming more *electronically-enabled* from an integrated business standpoint. (More specific information on the recommendation is provided at the end of this testimony.)

I would like to share with the committee a few reasons why I believe the ECRC program is still needed. As mentioned earlier, small business often experiences serious challenges when trying to participate in the electronic procurement process available from the Federal Government departments and agencies. Such problems range from not being able to identify procurement opportunities (due to lack of electronic commerce knowledge or capability) and/or elimination from competition due to consolidation of requirements by Government agencies through 'bundling'. While most, if not all, 'bundled' contracts have a requirement for small business participation, many small businesses that participate as sub-contractors will still face electronic commerce challenge.

For example, when the primes win a 'bundled' contract, the small business will most likely be required to be electronic commerce enabled in order to interact with the government agency or join in the prime's supply chain business process. This may, and probably will be, very different from the electronic business/electronic commerce capability required to do business directly with the Federal Government as the prime contractor.

Small businesses often find it difficult and expensive to upgrade the knowledge of their employees on the latest efforts by the Government to implement e-Government. Unlike the larger companies and corporations, the small business typically has limited financial and human resources or a communication staff to assist them in managing these important tasks. Programs, such as the Electronic Commerce Resource Centers, provide valuable 'no cost' assistance to the small business.

The most recent research by Government and industry analysts confirms that a significant percentage of the Nation's small and medium-size businesses have yet to adopt electronic commerce technologies. These small manufacturers and suppliers, and small

disadvantaged businesses, are stalled at the threshold of e-business at a time when their entry is a strategic business necessity. A recent GAO Study prepared at the request of the Senate Committee on Small Business and Entrepreneurship<sup>11</sup>, states that there are still many obstacles to small businesses to successfully conduct electronic procurement with the Government.

It is important to point out that the ability for a small business to participate in electronic business/electronic commerce is not limited to dealing with the Federal Government or Government prime contractors. It is equally critical for small business to have the ability to do more than to simply compete in the Government market; they must be made to believe they can compete with larger firms in the commercial marketplace. Industry surveys reveal that significant numbers of small and medium-sized enterprises often 'feel' they are left out or left behind because of their lack of e-business knowledge.

Meanwhile, those who have crossed the "digital divide" face a complex, increasingly competitive e-commerce environment. Its elements include a rapidly evolving e-business infrastructure; continuing advances in technology; and new, frequently incompatible, operating and technology standards imposed by supply chain networks, e-marketplaces (purchasing networks), and global commerce.

Numerous national studies and reports show that electronic commerce accounts for steadily growing shares of business-to-business and business-to-consumer sales. Internet based systems are in common use in supply chain management, after sales support, payment processing, information management, staff recruitment, and training. Technological advances (for example, electronic authentication and encryption components) continually expand the uses and usefulness of e-commerce tools. Viewed in this context, barriers to e-commerce are, in effect, barriers to new and expanded markets, to improved productivity and profitability.

In summary, our increasingly complex business environment demands -- more than at anytime in our country's history -- that government provide electronic business/electronic commerce education and technical assistance to the small business.

It is well known that the Department of Defense (DoD) is the largest buyer of goods and services within the Federal Government. Along with other Federal Departments and Agencies, the Department of Defense continues to emphasize electronic business/electronic commerce as the preferred method of conducting business with its supplier base. However, the termination of the Electronic Commerce Resource Center program leaves a void in delivering electronic business/electronic commerce assistance to small and disadvantaged enterprises that wish to do business with the DoD. These businesses continue to experience difficulty in gaining electronic business/electronic commerce capabilities and participating in the DoD and DoD prime contractor integrated supply chains.

The Electronic Commerce Resource Centers program provides education, training and technical assistance to small businesses. The ECRC vision statement sums up its mission:



"ECRCs serve as a catalyst for a vast network of small- and medium-sized enterprises (SMEs) to adopt electronic commerce. These enterprises use advanced electronic commerce technologies to provide the Department of Defense and the other federal organizations with low-cost, high-quality products, goods, and services." While focused on training SMEs to do electronic business with the Federal Government, the principles used in the commercial marketplace are the same. The assistance is provided at no, or very low cost, to the small business.

There are current programs that can provide electronic business/electronic commerce education and technical assistance to small businesses; however, the ECRC program specifically focuses on electronic business/electronic commerce support as it relates to DoD. It also provides education and training on how to participate in supply chain initiatives, such as prime vendor contracts, sub-contracting opportunities with Original Equipment Manufacturer's/Prime contractors, enterprise marketplaces, and automated bid request notification. Without the ECRC program, small businesses, especially DoD suppliers and potential DoD suppliers, do not have a DoD sponsored or DoD focused program that can provide services to assist in implementing electronic business/electronic commerce with the trading partners of the DoD.

As mentioned previously, there are several Government organizations or Government sponsored organizations that provide assistance to the small businesses; however, none of these agencies is specifically charged with providing EB/EC assistance as it relates to transacting business with the DoD.

- Small Business Administration (SBA). The U.S. Small Business Administration provides financial, technical and management assistance to help Americans start, run, and grow their businesses. One of its primary goals is the expansion from 20.9% to 23% over the next three years of the share of federal procurement that goes to small businesses. The objective for the next three years for small women-owned businesses is to increase their share from 1.7 to 2.5%, striving to achieve the goal of 5% for women-owned small businesses. But, the SBA is not charged with, nor has the expertise in doing this necessarily in an electronic environment.
- The SBA Office of Government Contracting advocates on behalf of small, small disadvantaged, and women-owned businesses to increase their share of awarded federal contracts and large prime subcontracts. GC oversees the following programs: Prime Contracts, Procurement Breakout, Subcontracting Assistance, Size Determinations, Natural Resources Sales, and Certificate of Competency. Again, the SBA is not charged with, nor has the expertise in doing this necessarily in an electronic business environment.
- Small Business Development Center (SBDC). The SBDC Program is designed to deliver up-to-date counseling, training and technical assistance in all aspects of small business management. SBDC services include, but are not limited to, assisting small businesses with financial, marketing, production, organization, engineering and technical problems and feasibility studies. The SBDCs also make

special efforts to reach minority members of socially and economically disadvantaged groups, veterans, women and the disabled. Assistance is provided to both current or potential small business owners. But again, provides no concerted support in using EC/EB tools essential to today's Federal and DoD environment.

- Procurement Technical Assistance Center (PTAC). The Defense Logistics Agency, on behalf of the Secretary of Defense, administers the DoD Procurement Technical Assistance (PTA) Cooperative Agreement Program. PTA Centers are a local resource that can provide assistance to business firms in marketing products and services to the Federal, State and local governments. PTACs do not have the capability nor expertise to provide counseling in electronic commerce tools and have, over the years, relied on ECRCs to provide this capability to their clientele.
- Manufacturing Extension Program (MEP). MEP is a nationwide network of not-for-profit Centers in over 400 locations nationwide, whose sole purpose is to provide small and medium-sized manufacturers with the help they need to succeed in today's global economy. This program is sponsored by the Department of Commerce's National Institute of Standards and Technology, which subsidizes a portion of the cost of the program. Assistance obtained through the MEP is not free to the SME's that use its services. It has no specific programs aimed at small disadvantaged businesses or electronic commerce.

Many of the technology staff from these existing programs are not resourced to assist in such areas as Internet security (e-Authentication initiative), Enterprise Resource Planning (ERP) systems (e.g., the Defense Logistics Agency's [DLA] Business Systems Modernization [BSM] program), electronic catalogs (prime vendor initiatives, DLA's EMALL, GSA Advantage), and advanced database strategies. The need is to provide small businesses technical assistance and education and training to support these technologies through fundamental business process changes, not simply adapting technology to their old business models and processes. The combination of these new processes and technologies can enable small businesses to compete fairly in DoD procurement, and to overcome "exclusionary" processes and requirements.

A recent survey of the small business and services providers (SBDCs, MEPs, PTACs, SBDCs) was conducted between January and April of this year (2002)<sup>iii</sup>. The survey objectives were to:

- Determine if there is still a need for electronic business/electronic commerce services for the small business community.
- If needed, identify the needs.
- Identify support programs that already exist, determine their scope, and ability to meet the current needs.
- Determine what needs still remain.
- Use the survey data to determine the best ways to meet current needs.

The conclusions documented in the results of the survey show that the small business community is in strong need of electronic business/electronic commerce assistance. There is a major need for electronic business training and support in basic electronic business areas of business-to-business commerce, government business issues, and electronic commerce.

In addition, limited efforts exist to provide electronic business training to Government funded service providers themselves, provide electronic business training to businesses, and provide small businesses with electronic business experts for consultation. These efforts are typically on the state level and focus on the basics of electronic business. Many States and the Federal Government have no efforts at all. Many organizations are referring clients to partners that are not part of the service provider network, who may not offer free services. At the basic electronic business technologies support level, the amount of work remaining is so great that it will be necessary for all service providers to integrate basic electronic business/electronic commerce information into their existing portfolio of services. As part of their services, they will need to provide basic awareness of key electronic business technologies, basic support, and basic training. This is unlikely to occur without outside assistance.

Fundamental to the service providers' success in integrating electronic business concepts into their existing services will be having the latest information available. From this survey and follow-up interviews, the survey found there is no process in place for keeping service providers up-to-date regarding Federal electronic commerce/electronic procurement initiatives<sup>iv</sup>.

To repeat my conclusion, I am convinced the need for small business to become *electronically-enabled* is more critical to the success of both the small business and the e-Government initiatives. Existing public resources should be leveraged to enable small businesses to seize their e-commerce opportunities, meet a new generation of e-commerce challenges, and participate in the DoD's and other Federal departments' and agencies' supply chain.

The ECRC program assists businesses of all sizes, in all industries, to take advantage of electronic commerce, electronic data interchange (EDI), and other emerging technologies of the digital business environment. The ECRC's participate in many joint ventures and cooperative programs with the Small Business Administration, Small Business Development Centers, Procurement Technical Assistant Centers, and Manufacturing Extension Partnerships. These cooperative programs produce highly effective "train-the-trainer" products for business assistance professionals. In addition, proven electronic commerce diagnostic tools help to properly assess clients' electronic commerce needs, support transition planning, identify electronic commerce options and models, and arrange the appropriate technical support and training. The ECRC's serve as a resource for regional, state, and Federal economic development agencies, industry and business groups, and local communities.

As I stated earlier, I recommend that a Federally sponsored program be established that uses the former ECRC program as a springboard to provide a new program offering a more advanced level of assistance to small business. The new focus would be on using contacts, skills and lessons learned to assist small business in becoming more *electronically-enabled* from an integrated business standpoint.

Since the ECRC program has only recently been discontinued and many, if not all, of the relationships, personnel, infrastructure, electronic business/electronic commerce tools, training programs, and outreach capabilities are still available it is necessary to take action quickly. These resources will quickly erode while the information needs of small businesses are becoming more complex in the e-Government environment.

While it is true many small businesses can access the Internet, surf Web sites for information, and many even have a Web presence in the form of a company site this is not sufficient to meet the needs of today's electronic commerce environment. The next step is to actually integrate electronic business/electronic commerce practices into core business processes (*e-enabling*) and to make effective and efficient use of these capabilities. It is this advanced capability that will empower small business to obtain a share of Federal procurements or serve as sub-contractor of bundled contracts and participate electronically with the prime contractors.

I am specifically recommending to the Committee the establishment of **The National Electronic-Government Assistance Center Program**: This program would enhance the existing programs (SBA, SBDC, PTAC, MEP) staff's understanding of electronic business/electronic commerce issues impacting Federal procurement by providing education, training and technical assistance courses and services. Subsequently, such courses and services help improve the small business's ability to respond to procurement initiatives requiring the use of these technologies. The National Electronic Government Assistance Center Program would work with the existing PTAC program to provide Education & Training and Technical Support services to their Small Business clients in electronic business/electronic commerce technologies including electronic tax filing, electronic payments, electronic compliance reporting, government loan/grant programs, permits and licenses. Training programs would be offered in conjunction with existing PTAC program seminars, workshops, and consulting services, to provide a single-stop resource for procurement and contracting information. A 'help desk' will also be offered to the existing programs' client base, where technical staff will provide answers to electronic business, e-Government and electronic procurement related questions. This program will provide a DoD/Federal agency-wide "focal" point for the support of various e-Government initiatives to small businesses a clear and consistent single face message.

For a proposed structure/operating organization of **The National Electronic-Government Assistance Center Program**, I recommend the not-for-profit organization of the Cleveland Advanced Manufacturing Program (CAMP) National Electronic Business Group. The CAMP National e-Business Group maintains relationships with other electronic business/electronic commerce and e-Government experts throughout the country. The CAMP experts would be available to all existing programs (SBA, SBDC,

PTAC, MEP) nationwide and will support small businesses throughout the United States. **The National Electronic-Government Assistance Center Program** headquarters would be located in Cleveland, OH. Other offices will be located in various locations around the United States. Using this regional concept, staff from each office will develop materials and conduct training courses or conduct classes in conjunction with the existing program offices and their clients, support regional conferences and seminars with informational sessions and speakers, and provide help desk support for client questions and inquiries. The program will also keep current with e-Government initiatives and will provide continual updates to the existing programs' offices, their staff, and clients. **The National Electronic-Government Assistance Center Program** staff will work together in a virtual environment, collaborating on development and delivery utilizing a shared network of common resources, communication by e-mail and Intranet, and other virtual collaboration techniques

Additional recognition within the Federal Government of the importance of having a Federal program focusing on small business support in electronic commerce and the role of the ECRCs was provided in the official comments by the Secretary of Commerce on the GAO report to the Senate Committee on Small Business and Entrepreneurship<sup>v</sup>. He made the following statement:

"We recommend that the services provided by the Electronic Commerce Resource Centers (ECRCs) be continued, preferably through specific appropriations or at a minimum by transferring the ECRC's to the Procurement Technical Assistance centers..."

Such statements of support reinforce the significance of education, training, and technical assistance to small business as part of developing a strong and competitive America.

Again, I wish to thank the Chairman, Ranking Member Velázquez and the Members of the Committee for permitting me to come before you today. I would be pleased to respond to questions the Committee may have.

<sup>i</sup> Please note: My use of the term e-Government expand from the "procurement arena" to include other business functions like electronic tax filing, electronic payments, electronic compliance reporting, government loan/grant programs, permits and licenses - business functions that are necessary to support federal procurement that are also moving to an electronic environment.

<sup>ii</sup> Report to the Ranking Minority Member, Committee on Small Business and Entrepreneurship, U.S. Senate, *Electronic Commerce: Small Business Participation in Selected Online Programs* (GAO -02-1); October 1, 2001.

<sup>iii</sup> *Results of Survey: Small Business and Service Provider electronic business Needs*, electronic business Technology Distribution Center (eBTDC), University of Scranton, Royal Technologies Group, Scranton, PA 18510, April 15, 2002. (This survey was accomplished under SBA Grant Number: SBAHQ-01-1-0031) Copies available upon request from the University of Scranton.

<sup>iv</sup> Op cit

<sup>v</sup> Letter from the Secretary of Commerce to Mr. David L McClure, October 3, 2001, responding with comments to the Report to the Ranking Minority Member, Committee on Small Business and Entrepreneurship, U.S. Senate, *Electronic Commerce: Small Business Participation in Selected Online Programs* (GAO -02-1); October 1, 2001.

STATEMENT  
of  
Mr. Bill Cabrera  
President, Lord & Co., Manassas, Va.  
Hearing of the House Small Business Committee  
May 15, 2002

Thank you, Mr. Chairman, and thank you, Ranking Member Velázquez, for the opportunity to testify before you today. My name is Bill Cabrera, and I am President of Lord & Co., a graduated 8(a) construction firm in Manassas, Virginia. I have worked in this industry for 26 years, and 20 years with Lord & Co. I am pleased to share with you my experience as a contractor with the federal government in order to spur reform of the procurement process.

I'd like to talk about two particular programs that I believe are hurting small businesses enough to chase them out of the federal marketplace unfairly.

First is the IDIQ procurement program. This is designed for fast-track programs with tight deadlines. A federal agency will maintain a stable of three or more small companies. The agency will have the flexibility to sole-source a high-priority job, or solicit bids from at least two of these companies for others.

This system places significant pressure to please the customer on companies after they actually win a contract. Depending on a project evaluation, a company could lose out on the next sole-source contract --- or be excluded from future bids. This practice puts small businesses practically at the mercy of contract inspectors, who can change the terms of the job almost at will.

This happened to my firm. We were given the sole source of a fast-track construction job to convert a barn at Walter Reed Hospital into a gymnasium within six weeks. We began with the initial drawings arriving from the government four weeks late. Three weeks later, we had the more updated set of drawings, and we got to work on those with the understanding that it would constitute the bulk of the project with some minor tweaking.

Six weeks after we got started, we received a new set of drawings which were substantially different from the et we used for planning. We were encumbered with other problems, as the barn had been seriously undermined by termite damage, requiring much more work to be done.

The final drawings required us to purchase \$1800 light fixtures from Belgium that had 16 weeks lead time. The contract inspector enforced that without flexibility. Custom bath fixtures, basins and valves were ordered. He enforced that. Then he ordered the installed tile color changed. All the while, we were given no secured space on site, which meant no office to store files and an open-air area where petty thieves constantly ran off with our building supplies.

With the project checklist dictated by the final specifications that we had not agreed to, we lost \$200,000 on a \$560,000 proposal. Yet I could not challenge the contract inspector, because I knew if I did I risked a bad performance rating I would be sidelined for all the new work to follow if I was deemed “difficult”.

Another problem came with we were working on the commissary at Walter Reed. The Army Corps of Engineers wanted some automatic doors replaced, so they asked another company to come in and install them. The Army Corps effectively made this company our subcontractor by allowing to peg their bill to ours.

You can imagine what happened when WE didn’t get paid. We were left holding the bag with this unintended subcontractor, which had no real relationship with the Corps. When we didn’t get paid, they couldn’t paid, so they sued us for the \$50,000 contract! I don’t particularly blame them, since they were only doing the job the Corps asked them to do, but I resent having to be the front man for a government that doesn’t pay its bills.

Payment problems are endemic. The Prompt Payment Act requires the government to write checks for work within 14 days. But in addition to being routinely paid several MONTHS after invoice, the government also refuses to pay interest on the bills that they miss for months or even years.

Small companies like mine don’t have the financial cushion that major corporations do to allow them to sit back and wait for the federal checks to roll in --- or the legal budget to challenge agencies that continually change the specifications of a job. These practices will continue to discourage --- and even bankrupt! --- small businesses that can do the job better, faster and cheaper than our corporate competition.

I hope my testimony will give you a better idea of the serious problems that are facing small businesses. We need to craft solutions so that small businesses are not sidelined or ruined by federal government work.

Thank you again for this opportunity.



May 30, 2002

Honorable Nydia Velazquez  
Ranking Member  
Committee on Small Business  
House of Representatives  
Washington, D.C. 20515

Re: May 15 Small Business Committee hearing follow up

Dear Congresswoman Velazquez:

Thank you for the opportunity to appear before the House Small Business Committee on May 15 to address contracting opportunities in the Federal government. As a woman-owned, 8(a) small business engineering services firm, I appreciated the opportunity to appear on behalf of the Professional Services Council (PSC). PSC is the leading national trade association of professional and technical services firms doing business with the federal government.

During the hearing, you asked me two specific questions. I responded to each of them, and, as we briefly discussed after the hearing, you asked that I follow up with you to elaborate on my response to both questions. By copy of this letter to Chairman Manzullo and the committee staff, I ask that this letter also be included in the hearing record as part of my testimony.

First, you asked for the number of Professional Services Council members with fewer than 500 employees. PSC does not require member companies to provide statistics on the numbers of employees. However, of the 127 current members of PSC, 19 have total annual corporate (not just federal) sales of less than \$3 million, exactly the same number as have annual corporate sales of \$1 billion or more. An additional 29 have total annual corporate sales of between \$3 million and \$20 million. Thus, we estimate that over one-third of the current PSC membership would qualify as small businesses under the 500 employee standard you referenced.

2370 Champlain St., N.W.  
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Washington, DC 20009  
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Second, you asked whether PSC supports legislation introduced by Congressman Tom Davis, H.R. 3832, the Services Acquisition Reform Act. PSC strongly supports that legislation, but as I noted in my follow-up conversation with you, we have focused our support on those elements of the legislation that would have the greatest impact on the services industry and the federal workforce regarding services. For your information, attached is the testimony that Jerald Howe, senior vice president and general counsel of Veridian Corporation, provided on behalf of PSC to the House Government Reform Committee legislative hearing on H.R. 3832 on March 7, 2002.

I trust that this additional information is helpful. If you have any questions, or need any additional information, please do not hesitate to call me or have your staff contact either Stan Soloway or Alan Chvotkin of the Professional Services Council at (703) 875-8059. Thank you again for the opportunity to participate in the important hearings of the House Small Business Committee.

Sincerely,  
Gryphon Technologies L.C.

P. J. Braden  
President

Attachment  
cc: Chairman Manzullo  
Nelson Crowther, Majority Staff  
Michael Day, Minority Staff  
Stan Soloway, PSC President

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TESTIMONY

of Jerald S. Howe Jr.  
*Senior Vice President and General Counsel*  
Veridian Corporation  
Arlington, VA

*on behalf of*  
The Professional Services Council

**Before the**  
**Subcommittee on Technology and Procurement Policy**  
**U.S. House of Representatives' Committee on Government Reform**

March 7, 2002

## INTRODUCTION

I am Jerald S. Howe Jr., senior vice president and general counsel of Veridian, a leading provider of information-based systems, integrated solutions and services to the U.S. government. We specialize in mission-critical national security programs, primarily for the intelligence community, the Department of Defense, law enforcement and other U.S. government agencies.

I am pleased to testify on behalf of the Professional Services Council (PSC). PSC is the nation's principal trade association of government professional and technical services providers, and represents the full range of information technology, research and development, engineering, high-end consulting, and other for-profit firms supporting the federal government's many missions in virtually every agency.

We appreciate the leadership that Chairman Davis has provided by focusing on the role of services contracting in the federal market, and on the need for additional government acquisition reform measures, particularly focused on services. We have been pleased to work with you and the subcommittee staff to identify issues and solutions. The Professional Services Council is a strong supporter of H.R. 3832, the Services Acquisition Reform Act of 2002 (SARA) and we commit our organization to work with you and other members through the legislative process to see it enacted.

## THE ROLE OF SERVICES IN FEDERAL CONTRACTING

The federal government spent approximately \$87 billion on the purchase of services in fiscal year 2000, the last federal fiscal year for which complete numbers are available; of this, DoD spent \$53 billion and the civilian agencies spent \$34 billion. Today, DoD spends as much on services as it does on weapons systems platforms! Of this \$87 billion, approximately \$22 billion was spent government-wide on information technology and IT-related services. There has been approximately 24 percent growth over the past decade in total federal spending on the full range of services purchases, with significant growth in absolute dollars and in percentages, particularly in the civilian agencies.

It is appropriate and necessary to focus on how the federal government approaches its services acquisitions today; to analyze the current situation and future challenges regarding services acquisitions; and to assess the full spectrum of available solutions, from the organizational structure to the commitment to the people involved, from the processes to the tools and techniques that are used and are needed. During previous oversight hearings held by this subcommittee in particular, and by other committees in Congress, many of these factors have been fully discussed. It is time to move from discussion to legislative action.

We support H.R. 3832 because of its focus on three interrelated aspects of a successful federal system for the acquisition of services: people, structure, and processes.

#### A FOCUS ON PEOPLE

Mr, Chairman, for services companies, there is no more important aspect of our business than our people. The same is true of the federal workforce. Too often, however, the impact of legislative or regulatory actions on the contractor or federal workforce is ignored or dismissed as immaterial. That is a serious policy mistake when dealing with the federal workforce; for PSC members, it is a prescription for bankruptcy! Our focus on people is one of the hallmarks of our industry and one of the reasons why PSC has been a vocal advocate for a well-trained, well-compensated federal acquisition workforce.

SARA properly includes several provisions that address key human capital issues for the federal acquisition workforce. Among them are provisions in Title I of the bill regarding a funding mechanism to ensure that the federal acquisition workforce has meaningful access to on-going relevant training. A well-educated workforce must be kept current on the latest legislative and regulatory changes; on the changing nature of the industry and the products and services they are acquiring; and on the new systems and techniques for fulfilling their critical assignments. Access to training is frequently a competitive discriminator when we seek to attract and retain talent in our member companies. It needs to be so for the federal workforce, as well.

It is our experience that there is no lack of training opportunities for federal employees. Many organizations, such as the Federal Acquisition Institute or the Defense Acquisition University, offer in-house training. We have several PSC member companies that are among the leaders in providing training to the federal workforce. Often, it is simply about the availability of the money to fund training opportunities.

We applaud the focus on workforce training and fully support a transparent system of accountability for both the individual and the agency. We would prefer to see direct appropriations made available to meet the employees' training needs, ensuring that federal employees have ready access to those funds.

Regrettably, this is not the reality of the federal budget process. Training and travel dollars are among the most discretionary of the funds for which an agency budgets, and often are the first to be cut when program funds are tight or other priorities arise. Employees are left with limited or no meaningful access to

training to perform the critical functions that the American people expect of them.

Therefore, we have recommended, and strongly supported, creating an alternative funding mechanism to ensure that at least some training funds are available. Section 102 of the bill is clear in its purpose of training the federal workforce for the 21<sup>st</sup> century. By setting aside for training of the federal acquisition workforce a small portion of the user fees on the transactions made under multiple-award contracts, Congress will have taken a significant step in addressing this important matter.

We recommend that the bill be clarified so that the funds "management" by the Federal Acquisition Institute does not require that FAI conduct the training exclusively in-house or exclude private sector training firms from continuing to provide training under contract to FAI or any federal agency. Similarly, we are confident that during future action on this legislation, attention will be given to the training needs of the Department of Defense acquisition workforce. In addition, there are appropriate metrics that can and should be adopted to ensure that the training sought is part of a coordinated and appropriately established set of goals—particularly with respect to service contracting—and is of demonstrated quality in both content and instructional methods.

We also support the government-industry exchange program described in Section 103. Both the government and industry benefit from a well-designed, well-executed professional exchange program. While we are aware of a very limited number of circumstances in which federal employees have been able to accept rotational assignments in private sector companies, they have had a significant and positive impact for the employee, their agencies, and the private sector companies. Clearly, federal personnel policy issues must be addressed to make this authority meaningful.

Section 104 of the bill provides necessary and appropriate authority for companies that encourage and allow their employees to participate in rotational assignments to federal agencies. Future versions of this legislation might incorporate Section 104 as a new subsection in Section 103.

Finally, we support Section 106, which provides limited authority to federal agencies to directly hire "critical shortage" acquisition positions. In our company, and in most of the PSC member companies, we must frequently create special incentives and techniques to attract and retain highly skilled employees. Federal agencies should have that same flexibility. We suggest that the program have at least a five-year life after the necessary government-personnel provisions are put into place, and that those procedures be required to be adopted within a reasonably short period of time after enactment.

#### A FOCUS ON STRUCTURE

Another key theme of this legislation is a focus on the most appropriate structure for managing the growing responsibilities placed on the federal acquisition system. Section 201 of the bill creates in each agency a chief acquisition officer.

At PSC, we have worked successfully with the senior procurement executives in many of the federal agencies. They are dedicated people who have a passion for their work and a strong professional commitment to the execution of their agencies' missions. In some cases, these individuals have the power to lead their organizations; in other cases, they are viewed as mere implementers. Some have policy responsibility, some do not.

The federal government spends \$220 billion on goods and services. For many agencies, it is their expenditures on goods and services that are at the heart of the execution of their missions. Some (like NASA) spend almost 90 percent of their appropriations on external providers, primarily contractors. Other agencies, such as the USAID, spend similar portions of their funds through a combination of contracts, grants and other funding instruments. The magnitude of this spending deserves the organization's full attention and commitment, and the formal structure of an organization, including the placement of key leadership, is one way to reflect that attention and commitment.

Acquisition is an important management discipline. Congress recognizes the importance of ensuring this senior agency leadership focus on acquisitions. In recognition of the critical role of acquisition in DoD's functions, Congress more than a decade ago created the position of undersecretary of defense for acquisition, and made that individual the third-ranking civilian in the department's hierarchy. The position is no less important for other agencies whose mission is not warfighting.

Congress has created through legislation, and many agencies have created administratively, key senior management positions for federal agencies, such as the chief financial officer (under the CFO Act), the chief information officer (under Clinger-Cohen), the directors of the offices of Small and Disadvantaged Business Utilization (under the Small Business Act) and even the inspectors general (under the IG Act). Each of these statutes directs that there be a specific organizational placement of the affected function within the agency.

The General Services Administration has properly created administratively a chief knowledge management officer and several agencies have created administratively chief technology officer positions to focus on that critical subset

of their mission roles and responsibilities. There is also legislation to create a chief human capital officer for agencies in recognition of the importance of addressing human capital needs of federal agencies.

We recognize that every agency has different structures and needs. While others are in a better position to determine the exact organizational placement of the chief acquisition officer within each federal agency, we believe that the position of chief acquisition officer, with authority for ensuring uniformity and accountability across agency activities, is critical.

Similarly, we support the creation within the Office of Federal Procurement Policy of a Center for Excellence in Service Contracting, as provided for in Section 401(c). If properly staffed, the office can provide critical assistance and guidance to all agencies to improve their successes and share best practices in acquiring needed services. Several agencies are already moving to create a single focal point for their services acquisition activities. For example, the Air Force recently announced the establishment of its Program Executive Office for Services, and is also creating acquisitions centers of excellence to focus on the special techniques and procedures to be used when acquiring services.

#### A FOCUS ON PROCESSES

The federal government is slowly upgrading the tools and techniques it uses to acquire services. Many of the best practices for services contracting, such as the use of performance-based contracting, have been around for decades. In fact, one of the earliest examples of a well-structured, well-executed, performance-based, incentive services contract was the 1908 Army award to the Wright Brothers for a "heavier-than-air" flying machine. It was a "best value" selection made from among three competitors and the low bidder was disqualified for an adverse past performance record! In 1992, the Office of Federal Procurement Policy issued an excellent guide to performance-based services contracting. In 1999, DoD issued an improved guide, and last month, GSA and other agencies issued an even better web-based guide to writing a high-quality statement of work for performance-based service contracts.

While progress is being made, it is vital that the methods and procedures that have been available to agencies for their purchases of "goods" also be available when they are purchasing services. Particularly as the services federal agencies acquire become more complex and technology-driven, it is important that the agencies have the maximum flexibility to meet their mission needs, consistent with smart acquisition planning and responsible oversight and safeguards.

Many of the provisions in Titles III, IV and V of the bill are designed to do just that. For example, Section 301 explicitly authorizes share-in-savings contracts to be used as appropriate by both defense and civilian agencies. If implemented properly in regulations, and executed properly by agencies, this contract type could provide agencies with a unique means of achieving service delivery goals without the enormous up-front capital requirements that frequently prevent achieving those goals. There are federal programs in which these types of contracts have been used successfully, and the agencies should have access to this contract type when they (and the contractor bidders) find it appropriate to meet the agency mission.

Similarly, Section 302 creates a powerful tool for the agencies to create performance-based service contracts with up to a 10-year maximum contract term or to utilize a level-of-effort contract with shared savings provisions to help reduce the overall cost of mission performance.

Section 401 makes permanent the temporary authority that exists to treat performance-based contracts or task orders valued at less than \$5 million as "commercial items" eligible for the use of special contracting techniques available for commercial items. We support making the authority permanent and government-wide. Nevertheless, the arbitrary ceiling under current law or under this provision may not serve the needs of the agencies, and may not attract to the federal marketplace certain companies and technologies. There has been limited use of the test program because of its short life; neither contracting officer nor contractor want to invest time and energy in such a limited program. While making that test program permanent is clearly a step in the right direction, more can and should be done to address the barriers to widespread use of commercial item purchases of services.

Section 402 acknowledges that many services federal agencies must acquire are best performed on a time and material or labor-hour basis. These contract types are used widely in the commercial marketplace, and should be available for use by the federal agencies. Many of the specialized training needs of federal employees, such as simulators or airport screening, or for network maintenance and troubleshooting that we provide in the commercial and government marketplace, are examples of the types of services that might be most appropriately acquired through these T&M or L-H contracts.

In 1994, when the Federal Acquisition Streamlining Act was being considered, there was insufficient time to push for the inclusion of these types of contracts in the definition of "commercial items." Given the nature of services contracting at that time, it was an understandable, but in hindsight regrettable, trade-off. But times have changed, the nature and scope of services acquisition is evolving, and



the law should be updated to provide agencies with a contract type that is most appropriate for their needs and consistent with commercial practices.

Section 404 extends the scope of the law from a focus on “transactions” to a focus on the organization that is providing the service. Within PSC, we are discussing establishing the proper measurement of, and threshold for, eligibility as an “entity” and the appropriate mechanisms for entering and consequences of exiting those thresholds. Nevertheless, we endorse the concept included in Section 404 of creating the “commercial entity” authority. There are many examples where the government was willing to look beyond a specific transaction for making a key determination of eligibility. Three examples are the definition of a “segment” to help a contractor assess the necessary coverage of the federal cost accounting standards; DoD’s initiatives to create a “single process initiative” that permits a contractor’s manufacturing facility to use a single set of processes and, with government permission, to override contrary specific specs and standards included in individual contracts; and the “other transactions” authorities already available for certain DoD activities that would be extended to the civilian agencies by Section 503 of this bill. We look forward to working with you and Congress to refine this important authority; it should not be jettisoned simply because it may not be perfect at this stage of the legislative process.

Section 502 extends to state and local governments access to one specific federal supply code classification available under the GSA Supply Schedule. The federal supply schedule is an excellent purchasing technique used extensively by federal agencies to take advantage of volume discounts and pre-negotiated terms and conditions. More can and should be done to make this program available on a voluntary basis for both state and local governments and by contractor schedules providers.

#### OTHER ISSUES

The impact of the federal government’s statutes and regulatory approaches to the treatment of intellectual property, particularly as they apply to the acquisition of services, merit mention, and possibly future administrative or legislative action. We applaud the subcommittee for having launched a review of this matter, and for having scheduled additional hearings in the near future. We support a comprehensive review of the current state of practice on intellectual property affecting services.

Finally, while Congress examines services acquisition, it must do so within the broader context of the strategic sourcing decisions that agencies make for performing their mission. For more than a half century, the federal government has had a wise policy of not competing with – indeed, relying on – the private sector, for its goods and services. That relationship has been a source of strength

in our national security posture and in other areas of government operations. Congress and the executive branch continue to support that policy. It is a fact that both the size of the federal workforce and the levels and the nature of the services being contracting for have followed similar, complementary paths based on the changing agency missions and needs.

This subcommittee knows very well the special challenges associated with the unique system of cost comparisons under OMB Circular A-76 used to compare private sector offers against an in-house bid for continued performance of work by federal employees. By May 1, the Commercial Activities Panel, chaired by the comptroller general, will report to Congress. All of us await his panel's recommendations. PSC has opposed legislation that would seek to specifically mandate or give preference to an in-house sourcing policy for the federal workforce or that would further tip the evaluation scales in favor of in-house performance. There is no need for any legislation in this area, particularly at this time.

Mr. Chairman, PSC has been a leading advocate for making significant changes to the way the federal government approaches the marketplace for the acquisition of services. H.R. 3832, the Services Acquisition Reform Act of 2002, is an important contributor to improving the way the federal government acquires services. We support it.

Thank you for the opportunity to appear before the subcommittee.

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